TITLE 38—VETERANS' BENEFITS

This title was enacted by Pub. L. 85-857, § 1, Sept. 2, 1958, 72 Stat. 1105

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5-9	Omitted.
10	215.
11	201, 210(b).
11a	101(1), 210(a), 210(b).
11a-1	Omitted.
11a-2	211(a).
11a-3	233.
11b	5006.
11c to 11d-1	Omitted.
11e	214.
11f	Omitted.
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11h	3303.
11i	5014.
11j	233(1), (2).
11k	233(4).
11l	3204.
12	Omitted.
12a	5011.
13	4201, 4202.
13a	4202.
13b	4203.
13c	4204, 4205.
13d	4205.
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13f	4207.
13g	4208.
14	5101.
14a	5102.
14b	5103.
14c	5104.
14d	5105.
14e	214.
15	4101.
15a	4102.
15b	4103.
15c	4104.
15d	4105.
15e	4106.
15f	4107.
15g	4108.
15h	4109.
15i	4110.
15j	4111.
15k	4112.
15l	4113.
15m	4114.
15n	4115.
16	5201.
16a	5202.
16b	5203.
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16d	5205.
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16j	Omitted.
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17d	5224.
17e	5225.
17f	5226.
17g	5227.
17h	5228.
17i	Omitted.
17j	210(c).
21-24	Omitted.
25-26a	3104.
26b, 26c	3105.
27-31	Omitted.
32, 32a	108.
33	3102.
34	902.
35	Omitted.
36	3102(b).
37	101(4).
38	107(a).
39, 39a	505.
41	3002.
42-49	Omitted.
49a	3107.
50	3020.
51-57	Omitted.
58	See 3011.
59-61	Omitted.
71-75	Omitted.
76	111(a)-(c).
77	111(d).
91-95	Omitted.
96	See 3021.
97	Omitted.
101	3402, 3403.
102	3404.
103	3405.
104	Omitted.
111	3404.
112-116	Omitted.
121-124	Omitted.
125	3301.
126	T. 18, § 289.
127	3501.
128	3502.
129	Omitted.
131	3311.
132	3312.
133	3313.
134	Omitted.
151-179	Omitted.
191	101(3), (4), 532, 533.
192	101(3), 302.
193-199	Omitted.
200	3107.
201	Omitted.
202	101(4).
203-206	Omitted.
221-232	Omitted.
238, 238a	Omitted.
238b-e	Omitted.
241-250	Omitted.
251	614.
252	Omitted.
252a	1901(a).
252b	1902.
252c	1903.
252d	1904.
252e	1905.
253	216(a), (c).
254	216(b).
261-274	Omitted.
275	532(c).

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277	532(a), (b), 533.
281	101(4).
282	Omitted.
283	532(d).
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288	532(a)–(c), 533.
289, 290	Omitted.
291	101(3), 532(a).
291a–291d	Omitted.
292	531.
293	101(3), 532(d).
294	101(3).
311–314	Omitted.
321–323	Omitted.
324–326c	See 3404.
327–332	Omitted.
341	3102(a).
341a–341d	Omitted.
341e	See 3404.
341f	Omitted.
351–354	Omitted.
355	101(3), (4).
356	101(3), (4).
357	Omitted.
357a	3010(c).
357b–362	Omitted.
363	See 3404, 3405.
364	Omitted.
364a	101(3), (4), 536, 537.
364b–364d	Omitted.
364e	See 3404, 3405.
364f	Omitted.
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365–365e	Omitted.
365f	See 3404.
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370f	536, 537.
370g	101(6), 512.
370h–370k	512.
370l	536.
371–374	Omitted.
374a	511.
375	501(1).
377–379	Omitted.
381 to 381–2	511.
381a	101(3), (4), 534, 535.
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381c	534, 535.
381d	See 3404, 3405.
381e	101(3).
381f	Omitted.
391	560.
392	561.
393	562(a)–(c).
394	562(d).
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422	3104.
423	Omitted.
424	101, 753.
424a	301(2)(A), 501(2).
425	Omitted.
426	210(c), 212(a), 3001(a).
427	Omitted.
428	214.
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430	230.
431, 432	Omitted.
433	211(b), 212(b).
434	233(c), 611(a).
435	5001.
436	5002.
437–438c	Omitted.
438d	5005.
438e	5004.
438f	Omitted.
438g	5002.
438h	Omitted.
438i	5005.
438j	5001.
438k	5002.
438l	5003.
438m	5005.
439	621.
440, 441	Omitted.
442	755, 756.
443	755, 756.
444	Omitted.
445	Omitted.
445a	784(a)–(h).
445b	784(i).
445c	784(h).
445d	784(b), (h).
446	Omitted.
447	754, 3103, 3504.
448, 449	Omitted.
450	3202.
451, 452	Omitted.
453	3102.
454	753, 754.
454a	3101.
455	5012(a).
456	3301.
457	234.
458	626.
459	Omitted.
459a	232.
459b	3304.
459c	782.
459d	See 3022.
459e–462	Omitted.
471	3107(a), (b).
471a	Omitted.
471a–1	314(a)–(j).
471a–2	Omitted.
471a–3	314(a)–(p), 541–544.
471a–4	Omitted.
471a–5	314(a)–(j).
472 to 472b–1	Omitted.
472c	302.
472d	3010(c).
472e–476	Omitted.
477	355.
478	Omitted.
479	3201.
480	3107(a), (b), 3203.
481–485	Omitted.
486	3107(a), (b).
487	102(b)(1).
488, 488a	109(a).
489–496	Omitted.
497	625.
498–501	Omitted.
501a, 501a–1	351.
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503	503(1), (5), 541, 542, 545.
504	537, 541–544.
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505a	101(3), 302, 541, 542.
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507	3001(b).
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507b	543, 544.
508–510	Omitted.
511	741, 743, 757(a), 782.
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518	747.
531–539	Omitted.
551	3401, 3404, 3405.
552	787(b), 3502.
553	3502.
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571–576	Omitted.
581–583	Omitted.
591	Omitted.
592	301.
601–603	Omitted.
611–623	Omitted.
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641–650	Omitted.
661–670	Omitted.
681–683	Omitted.
686–688b	Omitted.

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691b	2102.
691c	2104.
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691f	101.
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693	5012(b).
693a	230.
693b	5003.
693c	Omitted.
693d	613, 5013.
693e	Omitted.
693f	3402.
693g	3103.
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693i	T. 10, § 1554.
694(a)	1801(a)(1),(2), 1802(a), (b), 1803 (a)(1), (b).
694(b)	1803(b)(2), (c), (d).
694(c)	1802(c).
694(d)	1802(d), (f).
694(e)	1802(d).
694(f)	1802(e).
694(g)	1803(a)(2).
694a	1810.
694b	1812.
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694e	T. 7, § 1001(b)(2).
694f	Omitted.
694g	1816, 1817.
694h	1814.
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694j	1820(a)–(c).
694k	1821.
694l	1811(a)–(j).
694m	1811(k), 1823.
694n	1804(d).
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695	2010.
695a	2011.
695b	2012.
695c	2013.
695d	Omitted.
695e	2014.
695f–695m	Omitted.
697(a)	213.
697(b)	616.
697a, 697b	Omitted.
697c	101(2).
697d	214.
697e	Omitted.
697f	109(b).
697g	1510, 1824.
700	101(13).
701(a)–(e), (g)	Omitted.
701(f)	1502(a).
701a	1502(b).
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705	211.
706	610, 621(2), 622.
706a	610, 612(e).
706b	610.
706c	Omitted.
707	210, 611(a).
708	212.
709	3001(a), 3010(a), 4004.
710, 711	Omitted.
712	T. 18, § 1621.
713, 714	3502.
715	3503(a).
715a	3503(b), (c).
716	Omitted.
717	902.
718–724	Omitted.
725	102 (a)(1), (2)(A).
726	354.
727	537.
728	3504.
729	3108.
729a, 729b	3109.
730, 731	Omitted.
732	3010(b).
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734	Omitted.
735	101(3), 543, 544.
736–738	Omitted.
739	3107(a), (b), 3203.
740	315.
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742–744	Omitted.
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802(j), (k)	716(e).
802(l)	716(f).
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802(m)(2)	Omitted.
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803	703, 741.
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805	720.
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808	210–212, 785.
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1041	T. 18, §§ 1001, 1621.
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1044, 1045	Omitted.
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1119	101(3), 410(b), 3010(c), (d), 3011, 3012, 3102, 3104(b)(2), 3106, 3301.
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1131–1133(a)	Omitted.
1133(b)	423.
1133(c)–(e)	Omitted.
1134	Omitted.
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2106	101(18).
2107	102(b)(1), (2).
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2145–2147	Omitted.
2148, 2149	Prec. Pt. 1 note.
2150	Omitted.
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2214	215.
2215	216.
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2443	543.
2444	544.
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2461	561.
2462	562.
2501	601.
2502	602.
2510	610.
2511	611.
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2514	614.
2515	615.
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2527	627.
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2532	632.
2533	633.
2534	634.
2601	801.
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2603	803.
2604	804.
2605	805.
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2702	1902.
2703	1903.
2704	1904.
2705	1905.
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2802	902.
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2804	904.
2805	905.
2901	3001.
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3201	3301.
3202	3302.
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3213	3313.
3301	4001.
3302	4002.
3303	4003.
3304	4004.
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3307	4007.
3308	4008.
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3410	4110.
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3501	3201.
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3601	3401.
3602	3402.
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3704	5004.
3705	5005.
3711	5011.
3712	5012.
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Enacting Clause

Pub. L. 85–857, § 1, Sept. 2, 1958, 72 Stat. 1105, provided in part: "That the laws relating to veterans' benefits are revised, codified, and enacted as title 38, United States Code, 'Veterans' Benefits' ".

Effective Date

Pub. L. 85–857, § 2, Sept. 2, 1958, 72 Stat. 1262, provided that: "Except as otherwise provided in this Act, this Act shall take effect on January 1, 1959."

Offenses Committed Under Repealed Laws

Pub. L. 85–857, § 3, Sept. 2, 1958, 72 Stat. 1262, provided that:

"(a) All offenses committed and all penalties and forfeitures incurred under any of the provisions of law amended or repealed by this Act or the Veterans' Benefits Act of 1957 may be prosecuted and punished in the same manner and with the same effect as if such Acts had not been enacted.

"(b) Forfeitures of benefits under laws administered by the Veterans' Administration occurring before January 1959 shall continue to be effective."

CONTINUATION OF AUTHORITY UNDER ACT OF JULY 3, 1930

Pub. L. 85-857, § 4, Sept. 2, 1958, 72 Stat. 1262, provided that: "All functions, powers, and duties conferred upon and vested in the President and the Administrator by the Act of July 3, 1930 (46 Stat. 1016) and which were in effect on December 31, 1957, are continued in effect."

CROSS REFERENCES

Pub. L. 85-857, § 5, Sept. 2, 1958, 72 Stat. 1262, provided that:

"(a) References in other laws to any provision of law replaced by title 38, United States Code, shall, where applicable, be deemed to refer also to the corresponding provision of title 38, United States Code.

"(b) References in title 38, United States Code, to any provision of title 38, United States Code, shall, where applicable, be deemed to refer also to the prior corresponding provisions of law.

"(c) Amendments effective after August 18, 1958, made to any provision of law replaced by title 38, United States Code, shall, notwithstanding the repeal of such provision by section 14 of this Act, supersede the corresponding provisions of title 38, United States Code, to the extent that such amendments are inconsistent therewith."

CONTINUING AVAILABILITY OF APPROPRIATIONS

Pub. L. 85-857, § 6, Sept. 2, 1958, 72 Stat. 1263, provided that:

"(a) Amounts heretofore appropriated to carry out the purposes of any provision of law repelaed by this Act, and available on December 31, 1958, shall be available to carry out the purposes of the corresponding provisions of title 38, United States Code.

"(b) The availability and use of appropriations made for the purposes of the Act of July 1, 1948 (62 Stat. 1210; 50 App. U.S.C. 1991-1996) shall not be affected by the repeal of such Act."

OUTSTANDING RULES, REGULATIONS, AND ORDERS

Pub. L. 85-857, § 7, Sept. 2, 1958, 72 Stat. 1263, provided that: "All rules, regulations, orders, permits, and other privileges issued or granted by the Administrator of Veterans' Affairs before December 31, 1958, and in effect on such date (or scheduled to take effect after such date) shall remain in full force and effect until modified, suspended, overruled, or otherwise changed by the Administrator."

PUBLICATION

Pub. L. 85-857, § 8, Sept. 2, 1958, 72 Stat. 1263, provided that: "This Act shall be printed in slip-law form with a table of contents and a comprehensive index and tables furnished by the Committee on Veterans' Affairs of the House of Representatives; however, such table of contents, comprehensive index and tables shall not be printed in the United States Statutes at Large."

PENDING CLAIMS

Pub. L. 85-857, § 9, Sept. 2, 1958, 72 Stat. 1263, provided that: "A claim for benefits which is pending in the Veterans' Administration on January 1, 1959, or filed thereafter, shall be adjudicated under the laws in effect on December 31, 1958, with respect to the period before January 1, 1959, and, except as provided in section 10, under title 38, United States Code, thereafter."

PERSONS RECEIVING BENEFITS ON DECEMBER 31, 1958

Pub. L. 85-857, § 10, Sept. 2, 1958, 72 Stat. 1263, provided that: "Any individual receiving benefits as a veteran, or as the widow, child, or parent of a veteran, under public laws administered by the Veterans' Administration on December 31, 1958, shall, as long as entitlement under such laws continues, receive benefits under the corresponding provisions of title 38, United States Code, thereafter, or benefits at the rate payable under such public laws, whichever will result in the greater benefit being paid to the individual. The provisions of this section shall apply to those claims within the purview of section 9 in which it is determined that benefits are payable for December 31, 1958."

PERSONS ENTITLED TO EMERGENCY OFFICERS' RETIREMENT PAY ON DECEMBER 31, 1958, OR WHO FAILED TO SUBMIT APPLICATIONS PRIOR TO MAY 25, 1929

Pub. L. 85-857, § 11, Sept. 2, 1958, 72 Stat. 1263, as amended by Pub. L. 87-875, Oct. 24, 1962, 76 Stat. 1198, provided that:

"(a) Any person who was receiving, or entitled to receive, emergency officers' retirement pay, or other privileges or benefits as a retired emergency officer of World War I, on December 31, 1958, under the laws in effect on that day, shall, except where there was fraud, clear and unmistakable error as to conclusion of fact or law, or misrpesentation of material facts, continue, to receive, or be entitle to receive, emergency officers' retirement pay at the rate otherwise payable on December 31, 1958, and such other privileges and benefits, so long as the conditions warranting such pay, privileges, and benefits under those laws continue.

"(b) Any individual who, upon application therefor before May 25, 1929, would have been granted emergency officer's retirement pay based upon 30 per centum or more disability under the Act of May 24, 1928 (45 Stat. 735), and who would have been entitled to continue to receive such pay under section 10 of Public Numbered 2, Seventy-third Congress, or under section 1 of Public Numbered 743, Seventy-sixth Congress, and who upon being placed on the emergency officers' retired list would have been paid retired pay at a monthly rate lower than the monthly rate of disability compensation then payable, shall, upon application made therefor after the date of enactment of this subparagraph [Oct. 24, 1962] to the Administrator of Veterans' Affairs, be placed upon the appropriate emergency officers' retired list, and thereafter shall be entitled to all rights, privileges, and benefits of retired emergency officers of World War I."

CONTINUATION OF CERTAIN RIGHTS AND BENEFITS

Pub. L. 85-857, § 12, Sept. 2, 1958, 72 Stat. 1264, as amended by Pub. L. 89-50, § 1(c), June 24, 1965, 79 Stat. 173; Pub. L. 91-24, § 14(a), June 11, 1969, 83 Stat. 35, provided that:

"(a) [Repealed by Pub. L. 91-24, effective June 11, 1969, except as to any indebtedness which may be due the Government as the result of any benefits granted thereunder. Prior to such repeal, subsec. (a) read as follows: "The repeal of part VIII, and paragraphs 10 and 11 of part VII, of Veterans Regulation Numbered 1(a), sections 3 and 4 of Public Law 16, Seventy-eighth Congress, and section 1507 of the Servicemen's Readjustment Act of 1944, shall not apply in the case of any veteran (1) who enlisted or reenlisted in a regular component of the Armed Forces after October 6, 1945, and before October 7, 1946, or (2) whose discharge or dismissal is changed, corrected, or modified before February 1, 1965, pursuant to section 1552 or 1553 of title 10, United States Code, or by other corrective action by competent authority."]

"(b) Nothing in this Act or any amendment or repeal made by it, shall affect any right, liability, penalty, authorization or requirement pertaining to World War adjusted compensation authorized or prescribed under the provisions of the World War Adjusted Compensation Act, or the Adjusted Compensation Payment Act, 1936, or any related Act, which was in effect on December 31, 1958.

"(c) [Repealed by Pub. 89-50, effective July 1, 1966. Prior to such repeal, subsec. (c) read as follows: "Nothing in this Act, or any amendment or repeal made by it, shall deprive any person of benefits under the Mustering-Out Payment Act of 1944 to which he would have been entitled if this Act had not been enacted."]

"(d) Nothing in this Act, or any amendment or repeal made by it, shall affect any right of any person based on a contract entered into before the effective date of this Act, or affect the manner in which such right could have been enforced or obtained but for this Act, or such amendment or repeal.

"(e) Chapter 37 of title 38, United States Code, is a continuation and restatement of the provisions of title III of the Servicemen's Readjustment Act of 1944, and may be considered to be an amendment to such title III."

PART I—GENERAL PROVISIONS

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[1]So in original. Chapter 34 begins with section 1651.

AMENDMENTS

1976—Pub. L. 94-581, title II, § 203(a), Oct. 21, 1976, 90 Stat. 2856, inserted "Nursing Home," in the item covering chapter 17.

Pub. L. 94-502, title III, § 309(b), Oct. 15, 1976, 90 Stat. 2391, substituted "Survivors' and Dependents' Educational Assistance" for "War Orphans' and Widows' Education Assistance" in chapter 35 heading.

Pub. L. 94-502, title IV, § 405, Oct. 15, 1976, 90 Stat. 2397, added chapter 32.

1974—Pub. L. 93-569, § 7(d), Dec. 31, 1974, 88 Stat. 1866, substituted "Home, Condominium, and Mobile Home Loans" for "Home, Farm, and Business Loans" in chapter 37 heading.

Pub. L. 93-508, title IV, § 404(b), Dec. 3, 1974, 88 Stat. 1600, added chapter 43.

1973—Pub. L. 93-43, § 2(b), June 18, 1973, 87 Stat. 78, added chapter 24.

1972—Pub. L. 92-540, title V, §§ 502(b), 503(b), Oct. 24, 1972, 86 Stat. 1097, 1098, substituted ", Training and" for "and Employment" in chapter 41 heading, and added chapter 42.

1971—Pub. L. 91-666, § 2(b), Jan. 11, 1971, 84 Stat. 2000, in chapter 39 heading substituted "Automobiles and Adaptive Equipment for Certain Disabled Veterans and Members of the Armed Forces" for "Automobiles for Disabled Veterans".

1968—Pub. L. 90-631, § 2(h)(2), Oct. 23, 1968, 82 Stat. 1333, substituted "War Orphans' and Widows' Educational Assistance——1700" for "War Orphans' Educational Assistance——1701" in the heading of chapter 35.

1966—Pub. L. 89-358, §§ 4(c), 6(b), Mar. 3, 1966, 80 Stat. 23, 27, substituted chapter "34. Veterans' Educational Assistance——1650" for chapter "33. Education of Korean Conflict Veterans——1601" and added chapter 36; and substituted "Job Counseling and Employment Placement Service for Veterans" for "Unemployment Benefits for Veterans" in chapter 41 heading, respectively.

1965—Pub. L. 89-50, § 1(b), June 24, 1965, 79 Stat. 173, eliminated chapter 43, which related to mustering out payments.

PART I—GENERAL PROVISIONS

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CHAPTER 1—GENERAL

Sec.
101. Definitions.
102. Dependent parents; husbands.
103. Special provisions relating to marriages.

[1]Item has been editorially inserted. Chapter 82 was added by Pub. L. 92-541 without a conforming insertion into this analysis of chapters.

Sec.
104. Approval of educational institutions.
105. Line of duty and misconduct.
106. Certain service deemed to be active service.
107. Certain service deemed not to be active service.
108. Seven-year absence presumption of death.
109. Benefits for discharged members of allied forces.
110. Preservation of disability ratings.
111. Travel expenses.
112. Presidential memorial certificate program.

AMENDMENTS

1972—Pub. L. 92-540, title IV, § 409, Oct. 24, 1972, 86 Stat. 1092, in item 102 substituted "Dependent parents; husbands" for "Dependent parents and dependent husbands".

1965—Pub. L. 89-88, § 1(b), July 24, 1965, 79 Stat. 264, added item 112.

1964—Pub. L. 88-445, § 1(c), Aug. 19, 1964, 78 Stat. 464, substituted "Preservation of disability ratings" for "Preservation of total disability ratings" in item 110.

§ 101. Definitions

For the purposes of this title—

(1) The term "Administrator" means the Administrator of Veterans' Affairs.

(2) The term "veteran" means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

(3) The term "surviving spouse" means (except for purposes of chapter 19 of this title) a person of the opposite sex who was the spouse of a veteran at the time of the veteran's death, and who lived with the veteran continuously from the date of marriage to the date of the veteran's death (except where there was a separation which was due to the misconduct of, or procured by, the veteran without the fault of the spouse) and who has not remarried or (in cases not involving remarriage) has not since the death of the veteran, and after September 19, 1962, lived with another person and held himself or herself out openly to the public to be the spouse of such other person.

(4) The term "child" means (except for purposes of chapter 19 of this title and section 5202(b) of this title) a person who is unmarried and—

(A) who is under the age of eighteen years;

(B) who, before attaining the age of eighteen years, became permanently incapable of self-support; or

(C) who, after attaining the age of eighteen years and until completion of education or training (but not after attaining the age of twenty-three years), is pursuing a course of instruction at an approved educational institution;

and who is a legitimate child, a legally adopted child, a stepchild who is a member of a veteran's household or was a member at the time of the veteran's death, or an illegitimate child but, as to the alleged father, only if acknowledged in writing signed by him, or if he has been judicially ordered to contribute to the child's support or has been, before his death, judicially decreed to be the father of such child, or if he is otherwise shown by evidence satisfactory to the Administrator to be the father of such child. A person shall be deemed, as of the date of death of a veteran, to be the legally adopted child of such veteran if such person was at the time of the veteran's death living in the veteran's household and was legally adopted by the veteran's surviving spouse within two years after the veteran's death or the date of enactment of this sentence; however, this sentence shall not apply if at the time of the veteran's death, such person was receiving regular contributions toward the person's support from some individual other than the veteran or the veteran's spouse, or from any public or private welfare organization which furnishes services or assistance for children. A person with respect to whom an interlocutory decree of adoption has been issued by an appropriate adoption authority shall be recognized thereafter as a legally adopted child, unless and until that decree is rescinded, if the child remains in the custody of the adopting parent or parents during the interlocutory period. A person who has been placed for adoption under an agreement entered into by the adopting parent or parents with any agency authorized under law to so act shall be recognized thereafter as a legally adopted child, unless and until such agreement is terminated, if the child remains in the custody of the adopting parent or parents during the period of placement for adoption under such agreement.

(5) The term "parent" means (except for purposes of chapter 19 of this title) a father, a mother, a father through adoption, a mother through adoption, or an individual who for a period of not less than one year stood in the relationship of a parent to a veteran at any time before the veteran's entry into active military, naval, or air service or if two persons stood in the relationship of a father or a mother for one year or more, the person who last stood in the relationship of father or mother before the veteran's last entry into active military, naval, or air service.

(6) The term "Spanish-American War" (A) means the period beginning on April 21, 1898, and ending on July 4, 1902, (B) includes the Philippine Insurrection and the Boxer Rebellion, and (C) in the case of a veteran who served with the United States military forces engaged in hostilities in the Moro Province, means the period beginning on April 21, 1898, and ending on July 15, 1903.

(7) The term "World War I" (A) means the period beginning on April 6, 1917, and ending on November 11, 1918, and (B) in the case of a veteran who served with the United States military forces in Russia, means the period beginning on April 6, 1917, and ending on April 1, 1920.

(8) The term "World War II" means (except for purposes of chapters 31 and 37 of this title) the period beginning on December 7, 1941, and ending on December 31, 1946.

(9) The term "Korean conflict" means the period beginning on June 27, 1950, and ending on January 31, 1955.

(10) The term "Armed Forces" means the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components thereof.

(11) The term "period of war" means the Spanish-American War, the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam era, and the period begin-

ning on the date of any future declaration of war by the Congress and ending on the date prescribed by Presidential proclamation or concurrent resolution of the Congress.

(12) The term "veteran of any war" means any veteran who served in the active military, naval, or air service during a period of war.

(13) The term "compensation" means a monthly payment made by the Administrator to a veteran because of service-connected disability, or to a surviving spouse, child, or parent of a veteran because of the service-connected death of the veteran occurring before January 1, 1957.

(14) The term "dependency and indemnity compensation" means a monthly payment made by the Administrator to a surviving spouse, child, or parent (A) because of a service-connected death occurring after December 31, 1956, or (B) pursuant to the election of a surviving spouse, child, or parent, in the case of such a death occurring before January 1, 1957.

(15) The term "pension" means a monthly payment made by the Administrator to a veteran because of service, age, or non-service-connected disability, or to a surviving spouse or child of a veteran because of the non-service-connected death of the veteran.

(16) The term "service-connected" means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in the active military, naval, or air service.

(17) The term "non-service-connected" means, with respect to disability or death, that such disability was not incurred or aggravated, or that the death did not result from a disability incurred or aggravated, in line of duty in the active military, naval, or air service.

(18) The term "discharge or release" includes retirement from the active military, naval, or air service.

(19) The term "State home" means a home established by a State (other than a possession) for veterans disabled by age, disease, or otherwise who by reason of such disability are incapable of earning a living. Such term also includes such a home which furnishes nursing home care for veterans.

(20) The term "State" means each of the several States, Territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. For the purpose of section 903 and chapters 34 and 35 of this title, such term also includes the Canal Zone.

(21) The term "active duty" means—

(A) full-time duty in the Armed Forces, other than active duty for training;

(B) full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to "full military benefits" or (iii) at any time, for the purposes of chapter 13 of this title;

(C) full-time duty as a commissioned officer of the National Oceanic and Atmospheric Administration or its predecessor organization the Coast and Geodetic Survey (i) on or after July 29, 1945, or (ii) before that date (a) while on transfer to one of the Armed Forces, or (b) while, in time of war or national emergency declared by the President, assigned to duty on a project for one of the Armed Forces in an area determined by the Secretary of Defense to be of immediate military hazard, or (c) in the Philippine Islands on December 7, 1941, and continuously in such islands thereafter, or (iii) at any time, for the purposes of chapter 13 of this title;

(D) service as a cadet at the United States Military, Air Force, or Coast Guard Academy, or as a midshipman at the United States Naval Academy; and

(E) authorized travel to or from such duty or service.

(22) The term "active duty for training" means—

(A) full-time duty in the Armed Forces performed by Reserves for training purposes;

(B) full-time duty for training purposes performed as a commissioned officer of the Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to "full military benefits", or (iii) at any time, for the purposes of chapter 13 of this title;

(C) in the case of members of the National Guard or Air National Guard of any State, full-time duty under section 316, 502, 503, 504, or 505 of title 32, or the prior corresponding provisions of law; and

(D) authorized travel to or from such duty.

The term does not include duty performed as a temporary member of the Coast Guard Reserve.

(23) The term "inactive duty training" means—

(A) duty (other than full-time duty) prescribed for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by the Secretary concerned under section 206 of title 37 or any other provision of law; and

(B) special additional duties authorized for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned.

In the case of a member of the National Guard or Air National Guard of any State, such term means duty (other than full-time duty) under sections 316, 502, 503, 504, or 505 of title 32, or the prior corresponding provisions of law. Such term does not include (i) work or study performed in connection with correspondence courses, (ii) attendance at an educational institution in an inactive status, or (iii) duty performed as a temporary member of the Coast Guard Reserve.

(24) The term "active military, naval, or air service" includes active duty, any period of active duty for training during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in line of duty, and any period of inactive duty train-

ing during which the individual concerned was disabled or died from an injury incurred or aggravated in line of duty.

(25) The term "Secretary concerned" means—

(A) the Secretary of the Army, with respect to matters concerning the Army;

(B) the Secretary of the Navy, with respect to matters concerning the Navy or the Marine Corps;

(C) the Secretary of the Air Force, with respect to matters concerning the Air Force;

(D) the Secretary of Transportation, with respect to matters concerning the Coast Guard;

(E) the Secretary of Health, Education, and Welfare, with respect to matters concerning the Public Health Service; and

(F) the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration or its predecessor organization the Coast and Geodetic Survey.

(26) The term "Reserve" means a member of a reserve component of one of the Armed Forces.

(27) The term "reserve component" means, with respect to the Armed Forces—

(A) the Army Reserve;

(B) the Naval Reserve;

(C) the Marine Corps Reserve;

(D) the Air Force Reserve;

(E) the Coast Guard Reserve;

(F) the National Guard of the United States; and

(G) the Air National Guard of the United States.

(28) The term "nursing home care" means the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care, but who require skilled nursing care and related medical services, if such nursing care and medical services are prescribed by, or are performed under the general direction of, persons duly licensed to provide such care. The term includes intensive care where the nursing service is under the supervision of a registered professional nurse.

(29) The term "Vietnam era" means the period beginning August 5, 1964, and ending on such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress.

(30) The term "Mexican border period" means the period beginning on May 9, 1916, and ending on April 5, 1917, in the case of a veteran who during such period served in Mexico, on the borders thereof, or in the water adjacent thereto.

(31) The term "spouse" means a person of the opposite sex who is a wife or husband and the term "surviving spouse" means a person of the opposite sex who is a widow or widower.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1106; Pub. L. 86-195, Aug. 25, 1959, 73 Stat. 424; Pub. L. 87-674, § 1, Sept. 19, 1962, 76 Stat. 558; Pub. L. 87-815, § 3, Oct. 15, 1962, 76 Stat. 927; Pub. L. 88-450, § 4(c), (d), Aug. 19, 1964, 78 Stat. 504; Pub. L. 89-311, § 2(c)(1), Oct. 31, 1965, 79 Stat. 1155; Pub. L. 89-358, § 4(d), Mar. 3, 1966, 80 Stat. 24; Pub. L. 90-77, title II, § 201, Aug. 31, 1967, 81 Stat. 181; Pub. L. 91-24, §§ 1(a), (b), 16, June 11, 1969, 83 Stat. 33, 35; Pub. L. 91-262, § 1, May 21, 1970, 84 Stat. 256; Pub. L. 91-588, § 9 (a), (b), Dec. 24, 1970, 84 Stat. 1584; Pub. L. 91-621, § 6(a)(1), (2), Dec. 31, 1970, 84 Stat. 1864; Pub. L. 92-198, § 5(a), Dec. 15, 1971, 85 Stat. 664; Pub. L. 92-540, title IV, § 407, Oct. 24, 1972, 86 Stat. 1092; Pub. L. 94-169, title I, § 101(1), Dec. 23, 1975, 89 Stat. 1013; Pub. L. 94-417, § 1(b), Sept. 21, 1976, 90 Stat. 1277.)

REFERENCES IN TEXT

"The date of enactment of this sentence", referred to in par. (4), means August 25, 1959, the date on which Pub. L. 86-195 was approved.

AMENDMENTS

1976—Par. (19). Pub. L. 94-417 struck out "of any war (including the Indian Wars)" preceding "disabled" and "of any war" following "care for veterans".

1975—Par. (3). Pub. L. 94-169, § 101(1)(A), substituted "surviving spouse" for "widow", "person of the opposite sex" for "woman", "spouse" for "wife" wherever appearing therein, "the veteran's" for "his" wherever appearing therein, "with the veteran" for "with him", "person" for "man" wherever appearing therein and "himself or herself" for "herself".

Par. (4). Pub. L. 94-169, § 101(1)(B), substituted "regular contributions toward the person's support from some individual other than the veteran or the veteran's spouse" for "regular contribution toward his support from some individual other than the veteran or his spouse".

Par. (5). Pub. L. 94-169, § 101(1)(C), substituted "before the veteran's entry" for "before his entry".

Par. (13). Pub. L. 94-169, § 101(1)(D), substituted "surviving spouse" for "widow".

Par. (14). Pub. L. 94-169, § 101(1)(E), substituted "surviving spouse" for "widow" wherever appearing therein.

Par. (15). Pub. L. 94-169, § 101(1)(F), substituted "surviving spouse" for "widow".

Par. (31). Pub. L. 94-169, § 101(1)(G), added par. (31).

1972—Par. (4). Pub. L. 92-540 added provision recognizing as a legally adopted child a person who has been placed for adoption under an agreement entered into by the adopting parent or parents with an agency authorized by law to so act.

1971—Par. (30). Pub. L. 92-198 struck out the service requirement of 90 days or more.

1970—Par. (4). Pub. L. 91-262 added provision recognizing an adopted child of a veteran as a dependent from the date of issuance of an interlocutory decree.

Par. (11). Pub. L. 91-588, § 9(a), added reference to the Mexican border period.

Par. (21)(C). Pub. L. 91-621, § 6(a)(1), included within the term "active duty" duty as a commissioned officer of the National Oceanic and Atmospheric Administration or its predecessor organization.

Par. (25)(F). Pub. L. 91-621, § 6(a)(2), inserted "the National Oceanic and Atmospheric Administration or its predecessor organization" preceding "the Coast and Geodetic Survey".

Par. (30). Pub. L. 91-588, § 9(b), added par. (30).

1969—Par. (3). Pub. L. 91-24, § 16, substituted "September 16, 1962" for "enactment of the 1962 amendment to this paragraph".

Par. (23)(A). Pub. L. 91-24, § 1(a), substituted "section 206 of title 37" for "section 301 of title 37".

Par. (25)(D). Pub. L. 91-24, § 1(b), substituted "Secretary of Transportation" for "Secretary of the Treasury".

1967—Par. (11). Pub. L. 90-77, § 201(a), included the Vietnam era in the definition of "period of war" and substituted "the date" for "a date".

Par. (29). Pub. L. 90-77, § 201(b), added par. (29).

1966—Par. (20). Pub. L. 89-358 defined "State" to include the Canal Zone for the purpose of section 903 and chapters 34 and 35 of this title.

1965—Par. (4)(C). Pub. L. 89-311 substituted "twenty-three years" for "twenty-one years".

1964—Par. (19). Pub. L. 88-450, § 4(c), included a home which furnishes nursing home care for veterans of any war within the definition.

Par. (28). Pub. L. 88-450, § 4(d), added par. (28).

1962—Par. (3). Pub. L. 87-674 added the requirement that a widow, in cases not involving remarriage, must not, since the death of the veteran and after the enactment of this amendment, have lived with another man and held herself out openly to the public to be the wife of such other man, and deleted words "(unless the purported remarriage is void)" which followed "who has not remarried."

Par. (26). Pub. L. 87-815 substituted "'Reserve' means a member" for "'Reserves' means members."

1959—Par. (4). Pub. L. 86-195 provided that a person shall be deemed, as of the date of death of a veteran, to be the legally adopted child of the veteran if such person was at the time of the veteran's death living in the veteran's household and was legally adopted by the surviving spouse of the veteran within two years after the veteran's death or Aug. 25, 1959, the date of enactment of Pub. L. 86-195, provided that such person was not receiving regular contributions toward his support from some individual other than the veteran or his spouse, or from any public or private welfare organization.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 101 of Pub. L. 94-169 provided in part that the amendment by Pub. L. 94-169 is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-198 effective Jan. 1, 1972, see section 6 of Pub. L. 92-198, set out as an Effective Date of 1971 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-588 effective Jan. 1, 1971, see section 10(a) of Pub. L. 91-588, set out as an Effective Date of 1970 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Section 405 of Pub. L. 90-77 provided that:

"(a) Except as provided in subsections (b) and (c) of this section, this Act [see Short Title of 1967 Amendment note below] shall become effective on the first day of the first calendar month which begins more than ten days after the date of enactment of this Act [Aug. 31, 1967].

"(b) The amendments made by section 203 of this Act [to sections 602 and 612(h) of this title] shall become effective upon enactment [Aug. 31, 1967].

"(c) The amendments made by title II of this Act [to this section] relating to the payment of burial benefits in the case of veterans of the Vietnam era shall become effective on the date of enactment of this Act [Aug. 31, 1967]. If the burial allowance authorized by section 902 of title 38, United States Code is payable solely by virtue of the enactment of this Act, the two-year period for filing applications, referred to in section 904 of such title 38, shall not end, with respect to an individual whose death occurred prior to the enactment of this Act; before the expiration of the two-year period which begins on the date of enactment of this Act; or in any case involving the correction of a discharge after the date of enactment of this Act; before the expiration of two years from the date of such correction."

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-311 effective on the first day of the second calendar month following the date of enactment of Pub. L. 89-311, which was approved on Oct. 31, 1965, see section 9 of Pub. L. 89-311, set out as an Effective Date of 1965 Amendment note under section 314 of this title.

SHORT TITLE OF 1976 AMENDMENTS

Pub. L. 94-581, § 1, Oct. 21, 1976, 90 Stat. 2842, provided: "That this Act [enacting sections 4131 to 4134 of this title, amending sections 111, 601, 610, 611, 612, 613, 614, 616, 618, 619, 620, 621, 622, 623, 624, 626, 627, 628, 632, 633, 641, 642, 653, 903, 1903, 1904, 3301, 4101, 4102, 4103, 4104, 4105, 4106, 4107, 4108, 4112, 4113, 4114, 4116, 4117, 4118 note, 4121, 4122, 4123, 4202, 5001, 5002, 5004, 5005, 5007, 5011, 5012, 5013, 5014, 5031, 5032, 5034, 5035, 5036, 5053, 5054, 5055, 5056, 5070, 5071, 5073, 5083, 5093, 5096, 5202, 5220, and 5221 of this title, sections 1174, 1174 note, 1175, and 1175 note of Title 21, Food and Drugs, and sections 4581, 4581 note, 4582, and 4582 note of Title 42, The Public Health and Welfare, repealing section 216 of this title, and enacting provisions set out as notes under sections 101, 111, 612, 618, 4103, and 5053 of this title] may be cited as the 'Veterans Omnibus Health Care Act of 1976'."

Pub. L. 94-581, title II, § 201, Oct. 21, 1976, 90 Stat. 2855, provided that: "This title [amending sections 601, 610, 611, 612, 613, 614, 616, 619, 620, 621, 622, 623, 624, 626, 627, 628, 632, 633, 641, 642, 903, 1904, 3301, 4101, 4103, 4104, 4105, 4106, 4107, 4108, 4112, 4113, 4114, 4116, 4117, 4121, 4122, 4202, 5001, 5002, 5004, 5005, 5007, 5011, 5012, 5013, 5014, 5031, 5032, 5034, 5035, 5036, 5053, 5054, 5055, 5070, 5071, 5073, 5083, 5093, 5096, 5202, 5220, and 5221 of this title, repealing section 216 of this title, and enacting provisions set out as a note under section 111 of this title] may be cited as the 'Veterans Medical Technical and Conforming Amendments of 1976'."

Pub. L. 94-502, § 1, Oct. 15, 1976, 90 Stat. 2383, provided: "That this Act [enacting sections 1601 to 1643, and 2002A of this title, amending sections 1502 to 1505, 1507 to 1511, 1652, 1661 to 1663, 1670, 1671, 1673, 1674, 1676, 1681, 1682, 1685, 1691, 1692, 1696, 1698, 1700, 1701, 1711 to 1713, 1720, 1721, 1723, 1724, 1731 to 1734, 1736, 1741 to 1743, 1761, 1763, 1771, 1774, 1775, 1777, 1779 to 1781, 1783, 1784, 1786 to 1791, 1793, 1794, 1796, 1798, 1799, 2002, 2002 note, 2003 to 2008, 2011, 2012, 2021, 2024, and 3101 of this title, section 2108 of Title 5, Government Organization and Employees, and section 725s of Title 31, Money and Finance, and enacting provisions set out as notes under sections 1501, 1504, 1601, 1621, 1780, and 1798 of this title] may be cited as the 'Veterans' Education and Employment Assistance Act of 1976'."

Pub. L. 94-502, § 401, Oct. 15, 1976, 90 Stat. 2392, provided that: "This title [enacting chapter 32 of this title, amending sections 1652, 1661, and 1662 of this title and section 725s of Title 31, Money and Finance, and enacting provisions set out as notes under sections 1601 and 1621 of this title] may be cited as the 'Post-Vietnam Era Veterans' Educational Assistance Act of 1977'."

Pub. L. 94-433, § 1, Sept. 30, 1976, 90 Stat. 1374, provided: "That this Act [which enacted section 315(1)(I) and 908 of this title, amended sections 301(2)(A), (B), (3), (4), 302, 314(a) to (p), (r), (s), 315(1)(A) to (H), (J), (2), 321, 322, 341, 351, 354(a), 358, 360 to 362, 402, 404, 410 to 414, 416(a), (b)(1), (c), (d), (e)(1), (3), 421, 422(a), 423, 806(c), 1901(1), and 3012(b)(2), (9) of this title, and enacted provisions set out as notes under sections 301, 314, and 410 of this title] may be cited as the 'Veterans Disability Compensation and Survivor Benefits Act of 1976'."

Pub. L. 94-432, § 1, Sept. 30, 1976, 90 Stat. 1369, provided: "That this Act [which enacted sections 521(h) and 3006 of this title, amended sections 102(a)(2), 322(b), 415, (b)(1), (3), (c)(1), (3), (d)(1), (3), (h), 502(a), 521(b)(1), (3), (c)(1), (3), (d), (e), 541(b)(1), (3), (c)(1), (2), (d), 542(a), (c), and 544 of this title, enacted provisions set out as a note under section 501 of this title, and amended note provisions under sections 322, 415, 521, 541, 542, and 544 of this title] may be cited as the 'Veterans and Survivors Pension Adjustment Act of 1976'."

Pub. L. 94-324, § 1, June 30, 1976, 90 Stat. 721, provided that: "This Act [enacting section 1807 of this title and section 1709-1a of Title 12, Banks and Bank-

ing, amending sections 1801 to 1806, 1810, 1811, 1815 to 1820, 1823 to 1827 of this title, and enacting provision set out as a note under section 1801 of this title] may be cited as the 'Veterans Housing Amendments Act of 1976'."

SHORT TITLE OF 1975 AMENDMENTS

Section 1 of Pub. L. 94-169 provided: "That this Act [amending this section and sections 322, 415, 501, 502, 503, 505, 506, 507, 511, 512, 521, 523, 532, 533, 534, 535, 536, 537, 541, 542, 543, 544, 560, 561 and 562 of this title, repealing sections 510 and 531 of this title, and enacting provisions set out as notes under this section and sections 322, 415, 501, 521, 541, 542 and 544 of this title] may be cited as the 'Veterans and Survivors Pension Interim Adjustment Act of 1975'."

Pub. L. 94-123, § 1, Oct. 22, 1975, 89 Stat. 669, provided: "That this Act [enacting section 4118 of this title, amending sections 4104 to 4108 of this title and sections 5314 and 5315 of Title 5, Government Organization and Employees, and enacting provisions set out as notes under sections 4104 and 4118 of this title] may be cited as the 'Veterans' Administration Physician and Dentist Pay Comparability Act of 1975'."

Pub. L. 94-71, § 1, Aug. 5, 1975, 89 Stat. 395, provided: "That this Act [amending sections 314, 315, 362, 411, 413, 414, and 3010 of this title and enacting provisions set out as notes under sections 314 and 411 of this title] may be cited as the 'Veterans Disability Compensation and Survivor Benefits Act of 1975'."

SHORT TITLE OF 1974 AMENDMENTS

Pub. L. 93-602, § 201, Jan. 2, 1975, 88 Stat. 1958, provided that: "This title [amending sections 1504, 1677, 1682, 1696, 1732, 1742, 1786, and 1787 of this title, and enacting provisions set out as a note under section 1504 of this title] may be cited as the 'Veterans' Education and Rehabilitation Equalization Amendments Act of 1974'."

Pub. L. 93-569, § 1, Dec. 31, 1974, 88 Stat. 1863, provided: "That this Act [amending sections 802, 1802, 1803, 1804, 1810, 1811, 1815, 1818, and 1819 of this title, and section 1757 of Title 12, Banks and Banking, repealing sections 1812, 1813, 1814, and 1822 of this title, and enacting provision set out as a note under section 1802 of this title], may be cited as the 'Veterans Housing Act of 1974'."

Pub. L. 93-538, § 1, Dec. 22, 1974, 88 Stat. 1736, provided: "That this Act [enacting section 1904 of this title, amending sections 1901, 1902, and 1903 of this title, and enacting provisions set out as a note under section 1901] may be cited as the 'Disabled Veterans' and Servicemen's Automobile and Adaptive Equipment Amendments of 1974'."

Pub. L. 93-527, § 1, Dec. 21, 1974, 88 Stat. 1702, provided: "That this Act [amending sections 103, 415, 521, 541, 542, 544, and 3010 of this title, and enacting provisions set out as notes under sections 501 and 521 of this title] may be cited as the 'Veterans and Survivors Pension Adjustment Act of 1974'."

Pub. L. 93-508, § 1, Dec. 3, 1974, 88 Stat. 1578, provided: "That this Act [enacting sections 219, 220, 243, 1686, 1737, 1796, 1798, 1799, 2014, and 2021 to 2026 of this title, amending sections 241, 242, 244, 1501, 1502, 1504, 1652, 1661, 1673, 1677, 1682, 1685, 1692, 1696, 1723, 1732, 1742, 1774, 1780, 1784, 1786, 1787, 1788, 2001 to 2003, 2005 to 2007, and 2012 of this title, and section 459 of the Appendix to Title 50, War and National Defense, renumbering sections 243 and 244 of this title as 244 and 245, and enacting provisions set out as notes under sections 1501, 1652, 1780, and 1798 of this title] may be cited as the 'Vietnam Era Veterans' Readjustment Assistance Act of 1974'."

Pub. L. 93-295, § 1, May 31, 1974, 88 Stat. 180, provided: "That this Act [amending sections 314, 315, 322, 337, 342, 411, 413, 414, 1701, and 3202 of this title, repealing section 343 of this title, and enacting provisions set out as notes under sections 301 and 314 of this title] may be cited as the 'Veterans Disability Compensation and Survivor Benefits Act of 1974'."

Pub. L. 93-289, § 1, May 24, 1974, 88 Stat. 165, provided: "That this Act [which enacted sections 777, 778, and 779 of this title and section 707 of Title 37, Pay and Allowances of the Uniformed Services, amended sections 723, 765, 767, 768, 769, 770, 771, and 774 of this title, and enacted provisions set out as notes under sections 723, 765, 767, and 768 of this title and section 707 of Title 37], may be cited as the 'Veterans' Insurance Act of 1974'."

SHORT TITLE OF 1973 AMENDMENTS

Pub. L. 93-82, § 1, Aug. 2, 1973, 87 Stat. 179, provided: "That this Act [which enacted sections 613, 614, 628, 631, 632, 651 to 654, 4108, and 5007 of this title, amended sections 230, 234, 601, 610, 612, 620, 626, 641, 644, 4101, 4103, 4107 to 4109, 4112, 4114, 4116, 4117, 5001, 5012, 5033 to 5036, and 5053 of this title, enacted provisions set out as a note under section 632 of this title, and repealed provisions set out in prior sections 613, 614, 631, 632, and 4108 of this title] may be cited as the 'Veterans Health Care Expansion Act of 1973'."

Pub. L. 93-43, § 1, June 18, 1973, 87 Stat. 75, provided: "That this Act [which enacted chapter 24 and sections 218, 906, and 907 of this title, amended sections 903 and 3505(a) of this title and section 5316(131) to (133) of Title 5, Government Organization and Employees, repealed section 625 of this title and sections 271 to 273, 278 to 279d, 281 to 282, 286 to 290, and 296 of Title 24, Hospitals and Asylums, enacted provisions set out as notes under sections 903, 906, 1000, and 1004 of this title and sections 271 to 276 of Title 24, and repealed provision set out as notes under sections 289 and 290 of Title 24] may be cited as the 'National Cemeteries Act of 1973'."

SHORT TITLE OF 1972 AMENDMENTS

Pub. L. 92-541, § 1, Oct. 24, 1972, 86 Stat. 1101, provided: "That this Act [enacting subchapter II of chapter 73 and chapter 82 of this title], may be cited as the 'Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972'."

Section 1 of Pub. L. 92-540 provided: "That this Act [which enacted sections 1684, 1685, 1697A, 1733, 1734, 1780, 1786 to 1791, 2006-2008, and 2011 to 2013 of this title and section 591 of Appendix to Title 50, War and National Defense, redesignated sections 1686 as 1683, 1737 as 1736, and 1788 to 1791 as 1792 to 1795, respectively, amended sections 101, 102, 240, 241, 1502, 1504, 1507, 1661, 1671, 1673, 1677, 1681, 1682, 1691, 1692, 1696, 1701, 1712, 1720, 1723, 1731, 1732, 1735, 1742, 1770 to 1774, 1777, 1781 to 1785, 1792, 1793, 1795, 2001 to 2005, 3107, and 3301 of this title, and section 511 of Appendix to Title 50, repealed sections 1672, 1675, 1683, 1687, 1722, 1725, and 1736 of this title, and enacted provisions set out as notes under this section and sections 1712, 1780, 1786, 1792, and 2001 of this title] may be cited as the 'Vietnam Era Veterans' Readjustment Assistance Act of 1972'."

Section 501 of Pub. L. 92-540 provided that: "This title [which enacted sections 2006 to 2008 and 2011 to 2013 of this title and section 591 of Appendix to Title 50, War and National Defense, and amended sections 2002 to 2005 and 3107 of this title and section 511 of Appendix to title 50] may be cited as the 'Veterans' Employment and Readjustment Act of 1972'."

Pub. L. 92-328, § 1, June 30, 1972, 86 Stat. 393, provided that: "This Act [which enacted section 362 of this title, amended sections 210, 314, 315, 334, 335, 536, 1817, 1820, 3021, 3102, 3202, 3203, and 3503 of this title, repealed section 336 of this title, and enacted provisions set out as notes under sections 210, 314, 334, 3102, and 3203 of this title] may be cited as the 'Veterans' Compensation and Relief Act of 1972'."

SHORT TITLE OF 1971 AMENDMENT

Pub. L. 91-666, § 1, Jan. 11, 1971, 84 Stat. 1998, provided: "That this Act [which added chapter 39 of this title] may be cited as the 'Disabled Veterans' and Servicemen's Automobile Assistance Act of 1970'."

SHORT TITLE OF 1970 AMENDMENTS

Pub. L. 91-506, § 1, Oct. 23, 1970, 84 Stat. 1108, provided: "That this Act [enacting section 1819 of this title, amending sections 802, 1802, 1803, 1804, 1810, 1811, and 1818 of this title, and enacting provisions set out as notes under sections 1802 and 1819 of this title] may be cited as the 'Veterans' Housing Act of 1970'."

Pub. L. 91-219, § 1, Mar. 26, 1970, 84 Stat. 76, provided: "That this Act [which enacted sections 240 to 244, 1691 to 1693, 1695 to 1697, and 1763 of this title, amended sections 1504, 1652(b), (c), 1661(c), 1673(a), 1677(a), (b), 1681(d), 1682(a)(1), (b), (c)(2), (d)(2), 1683(b), 1684(a)(2) to (4), 1712(a)(3), (e), 1723(a), 1732(a) to (c), 1733(a)(3), 1742(a), 1772(c), 1777(a), and 1781 of this title, repealed section 1678 of this title, enacted provisions set out as notes under section 1504 of this title, and repealed provisions set out as notes under section 1781 of this title and section 1060 of Title 20, Education] may be cited as the 'Veterans Education and Training Amendments Act of 1970'."

SHORT TITLE OF 1967 AMENDMENT

Section 1 of Pub. L. 90-77 provided that: "This Act [which enacted sections 544, 1677, 1678, 1683, and 1777 of this title, amended this section and sections 103, 302, 314, 404, 502, 503, 511, 512, 521, 531, 532, 534, 536, 541, 542, 602, 612, 617, 901, 1652, 1661, 1662, 1673, 1682, 1712, 1784, 1802, 1803, 1811, 1901, and 1905 of this title, and enacted provisions set out as notes under this section and sections 521, 1678, 1712, and 1803 of this title] may be cited as the 'Veterans' Pension and Readjustment Assistance Act of 1967'."

SHORT TITLE OF 1966 AMENDMENTS

Pub. L. 89-785, § 1, Nov. 7, 1966, 80 Stat. 1368, provided: "That this Act [enacting sections 4117 and 5051 to 5057 of this title, amending sections 210, 213, 233, 610, 4101 to 4107, 4111 to 4114, 5004, and 5012 of this title, and enacting provisions set out as notes under section 4107 of this title] may be cited as the 'Veterans Hospitalization and Medical Services Modernization Amendments of 1966'."

Section 1 of Pub. L. 89-358 provided that: "This Act [which enacted sections 337, 1651 to 1698, 1770, 1781 to 1790, 1818, and 1826 of this title, amended sections 101(20), 102, 111(a), 211(a), 610, 901(a)(1), 903(b), 1701, 1711(b), 1731, 1734 to 1736, 1761, 1762, 1771 to 1776, 1803, 1811, 1822, 2001 to 2004, and 3013 of this title, section 851 of former Title 5, Executive Departments and Government Officers and Employees, now covered by sections 1302 and 2108 of Title 5, Government Organization and Employees, and section 530 of Appendix to Title 50, War and National Defense, repealed chapter 33, consisting of sections 1601, 1610 to 1613, 1620 to 1626, 1631 to 1634, 1641 to 1645, 1651 to 1656, and 1661 to 1669, and sections 1726 and 1763 to 1768 of this title, and enacting provisions set out as notes under section 1651 of this title] may be cited as the 'Veterans' Readjustment Benefits Act of 1966'."

SHORT TITLE OF 1959 AMENDMENT

Pub. L. 86-211, § 1, Aug. 29, 1959, 73 Stat. 432, provided: "That this Act [enacting sections 506 and 617 of this title, amending sections 503, 521, 522, 541 to 543, and 3203 of this title, section 948 of former Title 5, Executive Departments and Government Officers and Employees, section 1441 of Title 10, Armed Forces, and section 228s-1 of Title 45, Railroads, and enacting provisions set out as notes under section 521 of this title] may be cited as the 'Veterans' Pension Act of 1959'."

DISABILITY COMPENSATION OR DEPENDENCY AND INDEMNITY COMPENSATION AWARD; EFFECTIVE DATE

Section 6(b) of Pub. L. 91-621 provided that the effective date of an award by the Veteran's Administration arising from injury or death occurring prior to Dec. 31, 1970 and based on a claim arising from amendments made to pars. (21)(C), (25)(F) of this section and 3105 of this title, shall be the date following date of discharge or release, or the first day of the month in which death occurred, provided that the application was filed within six months after Dec. 31, 1970.

PROC. NO. 4373. TERMINAL DATE RESPECTING SERVICE DURING VIETNAM ERA

Proc. No. 4373, May 7, 1975, 40 F.R. 20257, provided:

The Congress has provided that entitlement to certain veterans benefits be limited to persons serving in the Armed Forces during the period, beginning August 5, 1964, referred to as the Vietnam era. The President is authorized to determine the last day on which a person must have entered the active military, naval, or air service during that period.

The signing of the cease-fire agreements and implementing protocols on January 27, 1973, between the United States of America and the Republic of Vietnam, on the one hand, and the Democratic Republic of Vietnam and the Provisional Revolutionary Government of the Republic of South Vietnam on the other hand, has terminated active participation by the Armed Forces of the United States in the Vietnam conflict.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, by virtue of the authority vested in me by Section 101(29) of Title 38 of the United States Code, do hereby proclaim, for the purposes of said Section 101(29), that May 7, 1975, is designated as the last day of the "Vietnam era."

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of May in the year of our Lord nineteen hundred seventy-five, and of the Independence of the United States of America the one hundred ninety-ninth.

GERALD R. FORD.

CROSS REFERENCES

General military law, see sections 101 and 261 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 901, 2013, 3102 of this title; title 5 sections 2108, 3501, 5532, 6303, 8706; title 20 section 1087dd; title 42 sections 410, 1477.

§ 102. Dependent parents; husbands

(a)(1) Dependency of a parent, which may arise before or after the death of a veteran, shall be determined in accordance with regulations prescribed by the Administrator.

(2) Dependency of a parent shall not be denied (A) solely because of remarriage, or (B) in any case in any State where the monthly income for a mother or father does not exceed minimum levels which the Administrator shall prescribe by regulation, giving due regard to the marital status of the mother or father and additional members of the family whom the mother or father is under a moral or legal obligation to support.

(3) For the purposes of this subsection in determining monthly income the Administrator shall not consider any payments under laws administered by the Veterans' Administration because of disability or death or payments of bonus or similar cash gratuity by any State based upon service in the Armed Forces.

(b) For the purposes of this title, (1) the term "wife" includes the husband of any female veteran; and (2) the term "widow" includes the widower of any female veteran.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1109; Pub. L. 89-358, § 4(e), (f), Mar. 3, 1966, 80 Stat. 24; Pub. L. 92-540, title IV, § 408, Oct. 24, 1972,

86 Stat. 1092; Pub. L. 94-432, title IV, § 402, Sept. 30, 1976, 90 Stat. 1372.)

AMENDMENTS

1976—Subsec. (a)(2). Pub. L. 94-432 substituted prohibition against denial of dependency of a parent "(B) in any case in any State where the monthly income for a mother or father does not exceed minimum levels which the Administrator shall prescribe by regulation, giving due regard to the marital status of the mother or father and additional members of the family whom the mother or father is under a moral or legal obligation to support" for such prohibition "(B) in any case in any State where the monthly income for a mother or father, not living together, is not more than $105, or where the monthly income for a mother and father living together, is not more than $175, plus, in either case, $45, for each additional member of the family whom the father or mother is under a moral or legal obligation to support, as determined by the Administrator".

1972—Pub. L. 92-540, § 408(2), substituted in the section catchline "Dependent parents; husbands" for "Dependent parents and dependent husbands".

Subsec. (b). Pub. L. 92-540, § 408(1), struck out exception which made definition of terms inapplicable to chapter 19 of this title and struck out from the definitions of the terms "wife" and "widow" provisions relating to the ability of such persons to maintain and support themselves.

1966—Subsec. (a)(2). Pub. L. 89-358, § 4(e), substituted "Dependency" for "Except for the purposes of chapter 33 of this title, dependency".

Subsec. (b). Pub. L. 89-358, § 4(f), deleted from the introductory parenthetical phrase the reference to chapter 33 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-432 effective Sept. 30, 1976, see section 405(a) of Pub. L. 94-432, set out as an Effective Date of 1976 Amendment note under section 521 of this title.

§ 103. Special provisions relating to marriages

(a) Whenever, in the consideration of any claim filed by a woman as the widow of a veteran for gratuitous death benefits under laws administered by the Veterans' Administration, it is established by evidence satisfactory to the Administrator that she, without knowledge of any legal impediment, entered into a marriage with such veteran which, but for a legal impediment, would have been valid, and thereafter cohabited with him for one year or more immediately before his death, or for any period of time if a child was born of the purported marriage or was born to them before such marriage, the purported marriage shall be deemed to be a valid marriage, but only if no claim has been filed by a legal widow of such veteran who is found to be entitled to such benefits. No duplicate payments shall be made by virtue of this subsection.

(b) Where a widow has been legally married to a veteran more than once, the date of original marriage will be used in determining whether the statutory requirement as to date of marriage has been met.

(c) In determining whether or not a woman is or was the wife of a veteran, their marriage shall be proven as valid for the purposes of all laws administered by the Veterans' Administration according to the law of the place where the parties resided at the time of the marriage or the law of the place where the parties resided when the right to benefits accrued.

(d)(1) The remarriage of the widow of a veteran shall not bar the furnishing of benefits to her as the widow of the veteran if the remarriage is void, or has been annulled by a court with basic authority to render annulment decrees unless the Veterans' Administration determines that the annulment was secured through fraud by either party or collusion.

(2) The remarriage of the widow of a veteran shall not bar the furnishing of benefits to her as the widow of the veteran if the remarriage has been terminated by death or has been dissolved by a court with basic authority to render divorce decrees unless the Veterans' Administration determines that the divorce was secured through fraud by the widow or collusion.

(3) If a widow ceases living with another man and holding herself out openly to the public as his wife, the bar to granting her benefits as the widow of the veteran shall not apply.

(e)(1) The marriage of a child of a veteran shall not bar recognition of such child as the child of the veteran for benefit purposes if the marriage is void, or has been annulled by a court with basic authority to render annulment decrees unless the Veterans' Administration determines that the annulment was secured through fraud by either party or collusion.

(2) The marriage of a child of a veteran shall not bar the recognition of such child as the child of the veteran for benefit purposes if the marriage has been terminated by death or has been dissolved by a court, with basic authority to render divorce decrees unless the Veterans' Administration determines that the divorce was secured through fraud by either party or collusion.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1109; Pub. L. 87-674, § 2, Sept. 19, 1962, 76 Stat. 558; Pub. L. 90-77, title I, § 101(b), Aug. 31, 1967, 81 Stat. 178; Pub. L. 91-376, § 4, Aug. 12, 1970, 84 Stat. 789; Pub. L. 93-527, § 9(a), Dec. 21, 1974, 88 Stat. 1705.)

AMENDMENTS

1974—Subsec. (e). Pub. L. 93-527 designated existing provisions as par. (1) and added par. (2).

1970—Subsec. (d). Pub. L. 91-376 designated existing provisions as par. (1), and added pars. (2) and (3).

1967—Subsec. (a). Pub. L. 90-77 reduced cohabitation period from five years to one year for purposes of deeming a purported marriage valid and provided for cohabitation for any period of time if a child was born of the purported marriage or was born before the marriage.

1962—Subsecs. (d), (e). Pub. L. 87-674 added subsecs. (d) and (e).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-527 effective Jan. 1, 1975, see section 10 of Pub. L. 93-527, set out as an Effective Date of 1974 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-376 effective Jan. 1, 1971, see section 9 of Pub. L. 91-376, set out as an Effective Date of 1970 Amendment note under section 314 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of

Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

REINSTATEMENT OF BENEFITS SUBSEQUENT TO TERMINATION OF RELATIONSHIP OR CONDUCT RESTRICTING PAYMENT OF BENEFITS; EFFECTIVE DATE OF AWARD

Section 5 of Pub. L. 91-376, effective January 1, 1971, provided that:

"(a) If a widow terminates a relationship or conduct which resulted in imposition of a prior restriction on payment of benefits, in the nature of inference or presumption of remarriage, or relating to open and notorious adulterous cohabitation or similar conduct, she shall not be denied any benefits by the Veterans' Administration, other than insurance, solely because of such prior relationship or conduct.

"(b) The effective date of an award of benefits resulting from enactment of subsection (a) of this section shall not be earlier than the date of receipt of application therefor, filed after termination of the particular relationship or conduct and after December 31, 1970."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3010 of this title.

§ 104. Approval of educational institutions

(a) For the purpose of determining whether or not benefits are payable under this title (except chapter 35 of this title) for a child over the age of eighteen years and under the age of twenty-three years who is attending a school, college, academy, seminary, technical institute, university, or other educational institution, the Administrator may approve or disapprove such educational institutions.

(b) The Administrator may not approve an educational institution under this section unless such institution has agreed to report to him the termination of attendance of any child. If any educational institution fails to report any such termination promptly, the approval of the Administrator shall be withdrawn.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1110; Pub. L. 91-24, § 1(c), June 11, 1969, 83 Stat. 33.)

AMENDMENTS

1969—Subsec. (a). Pub. L. 91-24 substituted "the age of twenty-three years" for "the age of twenty-one years".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 414 of this title.

§ 105. Line of duty and misconduct

(a) An injury or disease incurred during active military, naval, or air service will be deemed to have been incurred in line of duty and not the result of the veteran's own misconduct when the person on whose account benefits are claimed was, at the time the injury was suffered or disease contracted, in active military, naval, or air service, whether on active duty or on authorized leave, unless such injury or disease was the result of his own willful misconduct. Venereal disease shall not be presumed to be due to willful misconduct if the person in service complies with the regulations of the appropriate service department requiring him to report and receive treatment for such disease.

(b) The requirement for line of duty will not be met if it appears that at the time the injury was suffered or disease contracted the person on whose account benefits are claimed (1) was avoiding duty by deserting the service, or by absenting himself without leave materially interfering with the performance of military duties; (2) was confined under sentence of court-martial involving an unremitted dishonorable discharge; or (3) was confined under sentence of a civil court for a felony (as determined under the laws of the jurisdiction where the person was convicted by such court).

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1110.)

§ 106. Certain service deemed to be active service

(a)(1) Service as a member of the Women's Army Auxiliary Corps for ninety days or more by any woman who before October 1, 1943, was honorably discharged for disability incurred or aggravated in line of duty which rendered her physically unfit to perform further service in the Women's Army Auxiliary Corps or the Women's Army Corps shall be considered active duty for the purposes of all laws administered by the Veterans' Administration.

(2) Any person entitled to compensation or pension by reason of this subsection and to employees' compensation based upon the same service under the Federal Employees' Compensation Act must elect which benefit she will receive.

(b) Any person—

(1) who has applied for enlistment or enrollment in the active military, naval, or air service and has been provisionally accepted and directed or ordered to report to a place for final acceptance into such service; or

(2) who has been selected or drafted for service in the Armed Forces and has reported pursuant to the call of his local draft board and before rejection; or

(3) who has been called into the Federal service as a member of the National Guard, but has not been enrolled for the Federal service; and

who has suffered an injury or contracted a disease in line of duty while en route to or from, or at, a place for final acceptance or entry upon active duty, will, for the purposes of chapters 11, 13, 19, 21, 31, and 39 of this title, and for purposes of determining service-connection of a disability under chapter 17 of this title, be considered to have been on active duty and to have incurred such disability in the active military, naval, or air service.

(c) For the purposes of this title, an individual discharged or released from a period of active duty shall be deemed to have continued on active duty during the period of time immediately following the date of such discharge or release from such duty determined by the Secretary concerned to have been required for him to proceed to his home by the most direct route, and in any event he shall be deemed to have continued on active duty until midnight of the date of such discharge or release.

(d) For the purposes of this title, any individual—

(1) who, when authorized or required by competent authority, assumes an obligation to perform active duty for training or inactive duty training; and

(2) who is disabled or dies from an injury incurred by him while proceeding directly to or returning directly from such active duty for training or inactive duty training, as the case may be;

shall be deemed to have been on active duty for training or inactive duty training, as the case may be, at the time such injury was incurred. In determining whether or not such individual was so authorized or required to perform such duty, and whether or not he was disabled or died from injury so incurred, the Administrator shall take into account the hour on which he began so to proceed or to return; the hour on which he was scheduled to arrive for, or on which he ceased to perform, such duty; the method of travel employed; his itinerary; the manner in which the travel was performed; and the immediate cause of disability or death. Whenever any claim is filed alleging that the claimant is entitled to benefits by reason of this subsection, the burden of proof shall be on the claimant.

(e) Each person who has incurred a disability as a result of an injury or disease described in subsection (b) shall be entitled to the same rights, privileges, and benefits under the Act of June 27, 1944 (58 Stat. 387-391), as a person described in section 2(1) of such Act.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1110; Pub. L. 87-102, § 1, July 21, 1961, 75 Stat. 219; Pub. L. 88-616, Oct. 2, 1964, 78 Stat. 994; Pub. L. 89-311, § 5, Oct. 31, 1965, 79 Stat. 1156.)

REFERENCES IN TEXT

The Federal Employees' Compensation Act, referred to in subsec. (a)(2), which is act Sept. 7, 1916, ch. 458, 39 Stat. 742, as amended, was repealed and the provisions thereof reenacted as subchapter I (§ 8101 et seq.) of chapter 81 of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

The Act of June 27, 1944, referred to in subsec. (e), is act June 27, 1944, ch. 287, 58 Stat. 387, as amended, known as the Veterans' Preference Act of 1944, which was repealed and the provisions thereof reenacted as sections 1302(b), (c), 2108, 3305(b), 3306(a)(2), 3308 to 3318, 3319(b), 3320, 3351, 3363, 3364, 3501 to 3504, 7511, 7512, and 7701 of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

Section 2(1) of such Act, referred to in subsec. (e), was classified to section 581 of former Title 5, Executive Departments and Government Officers and Employees, which was repealed and its provisions reenacted as section 2108(2) of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1965—Subsec. (e). Pub. L. 89-311 added subsec. (e).

1964—Subsec. (d)(2). Pub. L. 88-616 deleted "after December 31, 1956," which followed "injury incurred".

1961—Subsec. (c). Pub. L. 87-102 extended the provisions for benefits based on limited periods immediately following discharge from active duty after December 31, 1956 to veterans discharged before such date.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 2 of Pub. L. 87-102 provided that: "No monetary benefits shall accrue by reason of the amendments made by this Act [to subsec. (c) of this section] for any period prior to the date of enactment [July 21, 1961]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 402, 902 of this title.

§ 107. Certain service deemed not to be active service

(a) Service before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, shall not be deemed to have been active military, naval, or air service for the purposes of any law of the United States conferring rights, privileges, or benefits upon any person by reason of the service of such person or the service of any other person in the Armed Forces, except benefits under—

(1) contracts of National Service Life Insurance entered into before February 18, 1946;

(2) the Missing Persons Act; and

(3) chapter 11, 13 (except section 412(a)), and 23 of this title.

Payments under such chapters shall be made at a rate in pesos as is equivalent to $0.50 for each dollar authorized, and where annual income is a factor in entitlement to benefits, the dollar limitations in the law specifying such annual income shall apply at a rate in Philippine pesos as is equivalent to $0.50 for each dollar. Any payments made before February 18, 1946, to any such member under such laws conferring rights, benefits, or privileges shall not be deemed to have been invalid by reason of the circumstance that his service was not service in the Armed Forces or any component thereof within the meaning of any such law.

(b) Service in the Philippine Scouts under section 14 of the Armed Forces Voluntary Recruitment Act of 1945 shall not be deemed to have been active military, naval, or air service for the purposes of any of the laws administered by the Veterans' Administration except—

(1) with respect to contracts of National Service Life Insurance entered into (A) before May 27, 1946, (B) under section 620 or 621 of the National Service Life Insurance Act of 1940, or (C) under section 722 of this title; and

(2) chapters 11 and 13 (except section 412(a)) of this title.

Payments under such chapters shall be made at a rate in pesos as is equivalent to $0.50 for each dollar authorized, and where annual income is a factor in entitlement to benefits, the dollar limitations in the law specifying such annual income shall apply at a rate in Philippine pesos as is equivalent to $0.50 for each dollar.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1111; Pub. L. 87-268, § 1(b), Sept. 21, 1961, 75 Stat. 566; Pub. L. 89-641, § 2(a), Oct. 11, 1966, 80 Stat. 885.)

REFERENCES IN TEXT

The Missing Persons Act, referred to in subsec. (a)(2), is act Mar. 7, 1942, ch. 166, 56 Stat. 143, as

amended, which was repealed and the provisions thereof, as applicable to members of the uniformed services and their dependents, were reenacted as chapter 10 (§ 551 et seq.) of Title 37, Pay and Allowances of the Uniformed Services, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

Section 14 of the Armed Forces Voluntary Recruitment Act of 1945, referred to in subsec. (b), is section 14 of act Oct. 6, 1945, ch. 393, 59 Stat. 543, which enacted section 637 of former Title 10, Army and Air Force, and was omitted from the Code in the revision and reenactment of Title 10, Armed Forces, by act Aug. 10, 1956, ch. 1041, 70A Stat. 1.

Sections 620 and 621 of the National Service Life Insurance Act of 1940, referred to in subsec. (b)(1), are sections 620 and 621 of act Oct. 8, 1940, ch. 757, title VI, pt. I, as added Apr. 25, 1951, ch. 39, pt. II, § 10, 65 Stat. 36, which enacted sections 820 and 821 of former Title 38, Pensions, Bonuses, and Veterans' Relief, which were repealed and the provisions thereof reenacted as sections 722(a) and 723 of this title by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1105.

AMENDMENTS

1966—Pub. L. 89-641 increased the specified dollar/peso rate for payments from one peso for each dollar otherwise authorized to a rate in Philippine pesos equivalent to $0.50 for each dollar.

1961—Pub. L. 87-268 substituted "section 412(a)" for "sections 412" wherever appearing.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 2(b) of Pub. L. 89-641 provided that: "The amendments made by subsection (a) of this section [amending this section] shall take effect on the first day of the second calendar month which begins after the date of enactment of this Act [Oct. 11, 1966]."

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-268 effective on Oct. 1, 1961, see section 3 of Pub. L. 87-268, set out as an Effective Date of 1961 Amendment note under section 412 of this title.

REFUND OF ERRONEOUSLY DEDUCTED NSLI PREMIUM TO PHILIPPINE VETERANS ON PROPER APPLICATION

Section 1 of Pub. L. 89-641 provided for the refund of erroneously deducted insurance premiums to Philippine armed forces members in the service of the United States Armed Forces, such refund to be made upon receipt of an application within two years after Oct. 11, 1966. In the event of the death of such member, the refund was to be made only to the widow or widower, children or parents of such member, in that order, with no refunds to heirs or legal representatives.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 725 of this title.

§ 108. Seven-year absence presumption of death

(a) No State law providing for presumption of death shall be applicable to claims for benefits under laws administered by the Veterans' Administration.

(b) If evidence satisfactory to the Administrator is submitted establishing the continued and unexplained absence of any individual from his home and family for seven or more years, and establishing that after diligent search no evidence of his existence after the date of disappearance has been found or received, the death of such individual as of the date of the expiration of such period shall be considered as sufficiently proved.

(c) Except in a suit brought pursuant to section 784 of this title, the finding of death made by the Administrator shall be final and conclusive.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1112.)

§ 109. Benefits for discharged members of allied forces

(a)(1) In consideration of reciprocal services extended to the United States, the Administrator, upon request of the proper officials of the government of any nation allied or associated with the United States in World War I (except any nation which was an enemy of the United States during World War II), or in World War II, may furnish to discharged members of the armed forces of such government, under agreements requiring reimbursement in cash of expenses so incurred, at such rates and under such regulations as the Administrator may prescribe, medical, surgical, and dental treatment, hospital care, transportation and traveling expenses, prosthetic appliances, education, training, or similar benefits authorized by the laws of such nation for its veterans, and services required in extending such benefits. Hospitalization in a Veterans' Administration facility shall not be afforded under this section, except in emergencies, unless there are available beds surplus to the needs of veterans of this country. The Administrator may also pay the court costs and othe expenses incident to the proceedings taken for the commitment of such discharged members who are mentally incompetent to institutions for the care or treatment of the insane.

(2) The Administrator, in carrying out the provisions of this subsection, may contract for necessary services in private, State, and other Government hospitals.

(3) All amounts received by the Veterans' Administration as reimbursement for such services shall be credited to the current appropriation of the Veterans' Administration from which expenditures were made under this subsection.

(b) Persons who served in the active service in the armed forces of any government allied with the United States in World War II and who at time of entrance into such active service were citizens of the United States shall, by virtue of such service, and if otherwise qualified, be entitled to the benefits of chapters 31 and 37 of this title in the same manner and to the same extent as veterans of World War II are entitled. No such benefit shall be extended to any person who is not a resident of the United States at the time of filing claim, or to any person who has applied for and received the same or any similar benefit from the government in whose armed forces he served.

(c)(1) Any person who served during World War I or World War II as a member of any armed force of the Government of Czechoslovakia or Poland and participated while so serving in armed conflict with an enemy of the United States and has been a citizen of the United States for at least ten years shall, by virtue of such service, and upon satisfactory evidence thereof, be entitled to hospital and domiciliary care and medical services within the United States under chapter 17 of this title to the same extent as if such service had been performed in the Armed Forces of the United States unless such person is entitle to, or would,

upon application thereof, be entitled to, payment for equivalent care and services under a program established by the foreign government concerned for persons who served in its armed forces in World War I or World War II.

(2) In order to assist the Administrator in making a determination of proper service eligibility under this subsection, each applicant for the benefits thereof shall furnish an authenticated certification from the French Ministry of Defense or the British War Office as to records in either such Office which clearly indicate military service of the applicant in the Czechoslovakian or Polish armed forces and subsequent service in or with the armed forces of France or Great Britain during the period of World War I or World War II.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1112; Pub. L. 94-491, Oct. 14, 1976, 90 Stat. 2363.)

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-491 added subsec. (c).

§ 110. Preservation of disability ratings

A rating of total disability or permanent total disability which has been made for compensation, pension, or insurance purposes under laws administered by the Veterans' Administration, and which has been continuously in force for twenty or more years, shall not be reduced thereafter, except upon a showing that such rating was based on fraud. A disability which has been continuously rated at or above evaluation for twenty or more years for compensation purposes under laws administered by the Veterans' Administration shall not thereafter be rated at less than such evaluation, except upon a showing that such rating was based on fraud. The mentioned period shall be computed from the date determined by the Administrator as the date on which the status commenced for rating purposes.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1113; Pub. L. 87-825, § 6, Oct. 15, 1962, 76 Stat. 950; Pub. L. 88-445, § 1(a), (b), Aug. 19, 1964, 78 Stat. 464; Pub. L. 91-32, June 23, 1969, 83 Stat. 38.)

AMENDMENTS

1969—Pub. L. 91-32 substituted "evaluation" for "percentage" wherever appearing therein.

1964—Pub. L. 88-445 substituted "Preservation of disability ratings" for "Preservation of total disability ratings" in the catchline, and inserted sentence directing that a disability which has been continuously rated at or above any percentage for twenty or more years for compensation purposes shall not thereafter be rated at less than such percentage, except upon a showing that such rating was based on fraud.

1962—Pub. L. 87-825 provided for computation of the period from the date the Administrator determines as the date the status commenced for rating purposes.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 1 of Pub. L. 91-32 provided in part that the amendment to this section by Pub. L. 91-32 shall become effective Aug. 19, 1964.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 7 of Pub. L. 87-825 provided that: "This Act [adding section 3110 of this title, amending sections 110, 351, 359, 3010, and 3012 of this title, and repealing sections 3004 and 3011 of this title] shall take effect on the first day of the second calendar month which begins after the date of enactment of this Act [Oct. 15, 1962], but no payments shall be made by reason of this Act for any period before such effective date. Payments for any period before such effective date shall be made under prior laws and regulations. The provisions of this Act with respect to reductions and discontinuances shall be applicable only where the event requiring such reduction or discontinuance occurs on or after such effective date. If such event occurred before such effective date, action shall be taken pursuant to the prior laws and regulations."

§ 111. Travel expenses

(a) Under regulations prescribed by the President pursuant to the provisions of this section, the Administrator may pay the actual necessary expense of travel (including lodging and subsistence), or in lieu thereof an allowance based upon mileage traveled, of any person to or from a Veterans' Administration facility or other place in connection with vocational rehabilitation, counseling required by the Administrator pursuant to chapter 34 or 35 of this title, or for the purpose of examination, treatment, or care. In addition to the mileage allowance authorized by this section, there may be allowed reimbursement for the actual cost of ferry fares, and bridge, road, and tunnel tolls.

(b) Payment of the following expenses or allowances in connection with vocational rehabilitation, counseling, or upon termination of examination, treatment, or care, may be made before the completion of travel:

(1) the mileage allowance authorized by subsection (a) hereof;

(2) actual local travel expenses;

(3) the expense of hiring an automobile or ambulance, or the fee authorized for the services of a nonemployee attendant.

(c) When any person entitled to mileage under this section requires an attendant (other than an employee of the Veterans' Administration) in order to perform such travel, the attendant may be allowed expenses of travel upon the same basis as such person.

(d) The Administrator may provide for the purchase of printed reduced-fare requests for use by veterans and their authorized attendants when traveling at their own expense to or from any Veterans' Administration facility.

(e)(1) In carrying out the purposes of this section, the Administrator, in consultation with the Administrator of General Services, the Secretary of Transportation, the Comptroller General of the United States, and representatives of organizations of veterans, shall conduct periodic investigations of the actual cost of travel (including lodging and subsistence) to beneficiaries while traveling to or from a Veterans' Administration facility or other place pursuant to the provisions of this section, and the estimated cost of alternative modes of travel, including public transportation and the operation of privately owned vehicles. The Administrator shall conduct such investigations immediately following any alteration in the rates described in paragraph (3)(C) of this subsection, and, in any event, immediately following the enactment of this subsection and not less often than annually thereafter, and based thereon, shall determine rates of allowances or reimbursement to be paid under this section.

(2) In no event shall payment be provided under this section—

(A) unless the person claiming reimbursement has been determined, based on an annual declaration and certification by such person, to be unable to defray the expenses of such travel (except with respect to a veteran receiving benefits for or in connection with a service-connected disability under this title);

(B) to reimburse for the cost of travel by privately owned vehicle in any amount in excess of the cost of such travel by public transportation unless (i) public transportation is not reasonably accessible or would be medically inadvisable, or (ii) the cost of such travel is not greater than the cost of public transportation; and

(C) in excess of the actual expense incurred by such person as certified in writing by such person.

(3) In conducting investigations and determining rates under this section, the Administrator shall review and analyze, among other factors, the following factors:

(A)(i) Depreciation of original vehicle costs;

(ii) gasoline and oil costs;

(iii) maintenance, accessories, parts, and tire costs;

(iv) insurance costs; and

(v) State and Federal taxes.

(B) The availability of and time required for public transportation.

(C) The per diem rates, mileage allowances, and expenses of travel authorized under sections 5702 and 5704 of title 5 for employees of the United States.

(4) Before determining rates under this section, and not later than sixty days after the effective date of this subsection, and thereafter not later than sixty days after any alteration in the rates described in paragraph (3)(C) of this subsection, the Administrator shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report containing the rates the Administrator proposes to establish or continue with a full justification therefor in terms of each of the limitations and factors set forth in this section.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1113; Pub. L. 86-590, July 5, 1960, 74 Stat. 329; Pub. L. 89-358, § 4(g), Mar. 3, 1966, 80 Stat. 24; Pub. L. 89-455, June 18, 1966, 80 Stat. 208; Pub. L. 94-581, title I, § 101, Oct. 21, 1976, 90 Stat. 2842.)

REFERENCES IN TEXT

The effective date of this subsection, referred to in subsec. (e)(4), is Oct. 21, 1976. See Effective Date of 1976 Amendment note below.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-581, § 101(1), inserted "pursuant to the provisions of this section" following "President".

Subsec. (e). Pub. L. 94-581, § 101(2), added subsec. (e).

1966—Subsec. (a). Pub. L. 89-358 substituted reference to chapter 34 for 33.

Subsec. (b). Pub. L. 89-455 authorized the prepayment of actual local travel expenses and the expense of hiring an automobile or ambulance, or the fee authorized for the services of a nonemployee attendant.

1960—Subsec. (a). Pub. L. 86-590 allowed reimbursement for the actual cost of ferry fares, and bridge, road, and tunnel tolls.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 211 of Pub. L. 94-581 provided that: "Except as otherwise provided in this Act [Pub. L. 94-581], the amendments made by this Act [see Short Title of 1976 Amendment note under section 101 of this title] to title 38, United States Code, shall take effect on October 1, 1976, or on the date of enactment [Oct. 21, 1976], whichever is later."

EXECUTIVE ORDER NO. 10810

Ex. Ord. No. 10810, Apr. 22, 1959, 24 F.R. 3179, as amended by Ex. Ord. No. 10881, July 6, 1960, 25 F.R. 6414, formerly set out as a note under this section, which prescribed regulations governing allowances, was superseded by Ex. Ord. No. 11142, Feb. 12, 1964, 29 F.R. 2479.

EXECUTIVE ORDER NO. 11142

Ex. Ord. No. 11142, Feb. 12, 1964, 29 F.R. 2479, formerly set out as a note under this section, which prescribed regulations governing allowances, was superseded by Ex. Ord. No. 11302, Sept. 6, 1966, 31 F.R. 11741, set out as a note below.

EX. ORD. NO. 11302. REGULATIONS GOVERNING ALLOWANCES

Ex. Ord. No. 11302, Sept. 6, 1966, 31 F.R. 11741, as amended Ex. Ord. No. 11429, Sept. 9, 1968, 33 F.R. 12817; Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, provided:

By virtue of the authority vested in me by Section 111 of Title 38 of the United States Code, as amended by the Act of June 18, 1966 (Public Law 89-455), it is hereby ordered as follows:

SECTION 1. The Administrator of Veterans' Affairs may authorize or approve the payment of the actual necessary expenses of travel, including lodging and subsistence, of any claimant or beneficiary of the Veterans' Administration traveling to or from a Veterans' Administration facility, or other place, in connection with vocational rehabilitation or counseling, or for the purpose of examination, treatment, or care. The Administrator may authorize or approve such payment to the claimant or beneficiary, or, in his discretion, to the person who or the organization which has actually paid the expenses of such travel, including lodging and subsistence.

SEC. 2. The Administrator of Veterans' Affairs may authorize or approve in lieu of actual necessary expenses of travel, including lodging and subsistence, payment of an allowance, in such amount per mile as the Administrator shall from time to time fix pursuant to 38 U.S.C. 111 as affected by this order, to any claimant or beneficiary of the Veterans' Administratoion traveling to or from a Veterans' Administration facility, or other place, in connection with vocational rehabilitation or counseling, or for the purpose of examination, treatment, or care. In addition to such mileage allowance, the Administrator may allow reimbursement for the actual cost of ferry fares, and bridge, road, and tunnel tolls. In his discretion, the Administrator may authorize or approve such payment and such reimbursement to the person who or the organization which has actually paid the expenses of such travel, including lodging and subsistence.

SEC. 3. Whenever a claimant or beneficiary requires an attendant other than an employee of the Veterans' Administration for the performance of travel specified in Section 1 and 2 hereof, the travel expenses of such attendant may be allowed in the same manner and to the same extent that travel expenses are allowed to such claimant or beneficiary.

SEC. 4. Payment of the following expenses or allowances in connection with vocational rehabilitation, counseling, or upon termination of examination, treatment, or care, may be made before the completion of travel:

a. The mileage allowance and fare and tolls authorized by Section 2 hereof.

b. Actual local travel expenses.

c. The expense of hiring an automobile or ambulance, or the fee authorized for services of a non-employee attendant.

SEC. 5. The Administrator of Veterans' Affairs may prescribe such rules and regulations not inconsistent herewith as may be necessary to effectuate the provisions of this order.

SEC. 6. Executive Order No. 11142 of February 12, 1964, is hereby superseded.

LYNDON B. JOHNSON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 601, 632 of this title.

§ 112. Presidential memorial certificate program

(a) At the request of the President the Administrator may conduct a program for honoring the memory of deceased veterans, discharged under honorable conditions, by preparing and sending to eligible recipients a certificate bearing the signature of the President and expressing the country's grateful recognition of the veteran's service in the Armed Forces. The award of a certificate to one eligible recipient will not preclude authorization of another certificate if a request is received from some other eligible recipient.

(b) For the purpose of this section an "eligible recipient" means the next of kin, a relative or friend upon request, or an authorized service representative acting on behalf of such relative or friend.

(Added Pub. L. 89-88, § 1(a), July 24, 1965, 79 Stat. 264.)

CHAPTER 3—VETERANS' ADMINISTRATION; OFFICERS AND EMPLOYEES

SUBCHAPTER I—VETERANS' ADMINISTRATION

Sec.
201. Veterans' Administration an independent agency.
202. Seal of the Veterans' Administration.
203. Availability of appropriations.

SUBCHAPTER II—ADMINISTRATOR OF VETERANS' AFFAIRS

210. Appointment and general authority of Administrator; Deputy Administrator.
211. Decisions by Administrator; opinions of Attorney General.
212. Delegation of authority and assignment of duties.
213. Contracts and personal services.
214. Reports to the Congress.
215. Publication of laws relating to veterans.
[216. Repealed.]
217. Studies of rehabilitation of disabled persons.
218. Standards of conduct and arrests for crimes at hospitals, domiciliaries, cemeteries, and other Veterans' Administration reservations.
219. Evaluation and data collection.
220. Coordination of other Federal programs affecting veterans and their dependents.

SUBCHAPTER III—VETERANS' ADMINISTRATION REGIONAL OFFICES; EMPLOYEES

230. Central and regional offices.
231. Placement of employees in military installations.
[232. Repealed.]
233. Employees' apparel; school transportation; recreational equipment; visual exhibits; personal property; emergency transportation of employees.
234. Telephone service for medical officers and facility directors.
235. Benefits to employees at oversea offices who are United States citizens.
236. Administrative settlement of tort claims arising in foreign countries.

SUBCHAPTER IV—VETERANS OUTREACH SERVICES PROGRAM

240. Purpose; definitions.
241. Outreach services.
242. Veterans assistance offices.
243. Veterans' representatives.
244. Utilization of other agencies.
245. Report to Congress.

AMENDMENTS

1976—Pub. L. 94-581, title II, § 205(c)(2), Oct. 21, 1976, 90 Stat. 2859, struck out item 216 "Research by Administrator; indemnification of contractors."

Pub. L. 94-424, § 2(b), Sept. 28, 1976, 90 Stat. 1332, added item 203.

1974—Pub. L. 93-508, title II, §§ 213(b), 214(b), Dec. 3, 1974, 88 Stat. 1587, 1589, added items 219, 220, and 243 and renumbered former items 243 and 244 as 244 and 245, respectively.

1973—Pub. L. 93-82, title IV, § 402(b), Aug. 2, 1973, 87 Stat. 196, substituted "medical officers and facility directors" for "medical officers" in item 234.

Pub. L. 93-43, § 4(c)(1), June 18, 1973, 87 Stat. 79, added item 218.

1970—Pub. L. 91-219, title II, 214(b), Mar. 26, 1970, 84 Stat. 85, added subchapter IV.

1969—Pub. L. 91-24, § 2(b), June 11, 1969, 83 Stat. 33, struck out item 232 "Employment of translators."

1966—Pub. L. 89-785, title III, § 303(c), Nov. 7, 1966, 80 Stat. 1377, inserted "; emergency transportation of employees" in item 233.

Pub. L. 89-361, § 1(c), Mar. 7, 1966, 80 Stat. 29, added "; Deputy Administrator" in item 210.

1965—Pub. L. 89-300, § 1(b), Oct. 28, 1965, 79 Stat. 1110, added item 236.

1964—Pub. L. 88-433, § 1(d), Aug. 14, 1964, 78 Stat. 442, inserted "; indemnification of contractors" in item 216.

1962—Pub. L. 87-815, § 6(b), Oct. 15, 1962, 76 Stat. 927, substituted "at oversea offices" for "in the Republic of the Philippines", in item 235.

Pub. L. 87-574, § 1(2), Aug. 6, 1962, 76 Stat. 308, inserted "; personal property" in item 233.

1959—Pub. L. 86-116, § 2, July 28, 1959, 73 Stat. 265, added item 235.

SUBCHAPTER I—VETERANS' ADMINISTRATION

§ 201. Veterans' Administration an independent agency

The Veterans' Administration is an independent establishment in the executive branch of the Government, especially created for or concerned in the administration of laws relating to the relief and other benefits provided by law for veterans, their dependents, and their beneficiaries.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1114.)

§ 202. Seal of the Veterans' Administration

The seal of the Veterans' Administration shall be judicially noticed. Copies of any public documents, records, or papers belonging to or in the files of the Veterans' Administration, when authenticated by the seal and certified by the Administrator or by any employee of the Veterans' Administration to whom proper authority shall have been delegated in writing by

the Administrator, shall be evidence equal with the originals thereof.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1114.)

§ 203. Availability of appropriations

Any funds appropriated to the Veterans' Administration may, to the extent provided in this title or an appropriations Act, remain available until expended.

(Added Pub. L. 94–424, § 2(a), Sept. 28, 1976, 90 Stat. 1332.)

SUBCHAPTER II—ADMINISTRATOR OF VETERANS' AFFAIRS

§ 210. Appointment and general authority of Administrator; Deputy Administrator

(a) The Administrator of Veterans' Affairs is the head of the Veterans' Administration. He is appointed by the President, by and with the advice and consent of the Senate.

(b) The Administrator, under the direction of the President, is responsible for the proper execution and administration of all laws administered by the Veterans' Administration and for the control, direction, and management of the Veterans' Administration. Except to the extent inconsistent with law, he may consolidate, eliminate, abolish, or redistribute the functions of the bureaus, agencies, offices, or activities in the Veterans' Administration, create new bureaus, agencies, offices, or activities therein, and fix the functions thereof and the duties and powers of their respective executive heads.

(c)(1) The Administrator has authority to make all rules and regulations which are necessary or appropriate to carry out the laws administered by the Veterans' Administration and are consistent therewith, including regulations with respect to the nature and extent of proofs and evidence and the method of taking and furnishing them in order to establish the right to benefits under such laws, the forms of application by claimants under such laws, the methods of making investigations and medical examinations, and the manner and form of adjudications and awards.

(2) If the Administrator determines that benefits administered by the Veterans' Administration have not been provided by reason of administrative error on the part of the Federal Government or any of its employees, he is authorized to provide such relief on account of such error as he determines equitable, including the payment of moneys to any person whom he determines equitably entitled thereto.

(3)(A) If the Administrator determines that any veteran, widow, child of a veteran, or other person, has suffered loss as a consequence of reliance upon a determination by the Veterans' Administration of eligibility or entitlement to benefits, without knowledge that it was erroneously made, he is authorized to provide such relief on account of such error as he determines equitable, including the payment of moneys to any person whom he determines equitably entitled thereto.

(B) The Administrator shall submit an annual report to the Congress on January 1, 1973, and each succeeding year containing a brief summary, including a statement as to the disposition of each case recommended to him for equitable relief under this paragraph.

(d) There shall be in the Veterans' Administration a Deputy Administrator of Veterans' Affairs who shall be appointed by the Administrator. The Deputy Administrator shall perform such functions as the Administrator shall designate and, unless the President shall designate another officer of the Government, shall be Acting Administrator of Veterans' Affairs during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1114; Pub. L. 88–426, title III, § 305(15), Aug. 14, 1964, 78 Stat. 424; Pub. L. 89–361, § 1(a), (b), Mar. 7, 1966, 80 Stat. 29; Pub. L. 89–785, title III, § 301, Nov. 7, 1966, 80 Stat. 1376; Pub. L. 92–328, title II, § 201, June 30, 1972, 86 Stat. 396.)

AMENDMENTS

1972—Subsec. (c)(3). Pub. L. 92–328 added subsec. (c)(3).

1966—Subsec. (c). Pub. L. 89–785 designated existing provisions as par. (1) and added par. (2).

Pub. L. 89–361 inserted "; Deputy Administrator" in the section catchline and added subsec. (d).

1964—Subsec. (a). Pub. L. 88–426 repealed provisions which prescribed the salary of the Administrator. See section 5313(5) of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 301(c) of Pub. L. 92–328 provided that: "Sections 201 through 206 of this Act [which amended sections 210, 1817, 1820, 3102, and 3503 of this title, and enacted provisions set out as a note under section 3102 of this title] shall take effect upon the date of enactment of this Act [June 30, 1972]."

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88–426, see section 501 of Pub. L. 88–426.

CONTINUATION OF AUTHORITY UNDER ACT OF JULY 3, 1930

Section 4 of Pub. L. 85–857 provided that: "All functions, powers, and duties conferred upon and vested in the President and the Administrator by the Act of July 3, 1930 (46 Stat. 1016) and which were in effect on December 31, 1957, are continued in effect."

OUTSTANDING RULES, REGULATIONS, AND ORDERS

Section 7 of Pub. L. 85–857 provided that: "All rules, regulations, orders, permits, and other privileges issued or granted by the Administrator of Veterans' Affairs before December 31, 1958, and in effect on such date (or scheduled to take effect after such date) shall remain in full force and effect until modified, suspended, overruled, or otherwise changed by the Administrator."

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Administrator of Veterans' Affairs, see Parts 1, 29, and 30 of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2292 of Title 50, Appendix, War and National Defense.

CROSS REFERENCES

Compensation of Administrator, see section 5313 of Title 5, Government Organization and Employees.

Compensation of Deputy Administrator, see section 5314 of Title 5.

§ 211. Decisions by Administrator; opinions of Attorney General

(a) On and after October 17, 1940, except as provided in sections 775, 784, and as to matters arising under chapter 37 of this title, the decisions of the Administrator on any question of law or fact under any law administered by the Veterans' Administration providing benefits for veterans and their dependents or survivors shall be final and conclusive and no other official or any court of the United States shall have power or jurisdiction to review any such decision by an action in the nature of mandamus or otherwise.

(b) The Administrator may require the opinion of the Attorney General on any question of law arising in the administration of the Veterans' Administration.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1115; Pub. L. 89–214, § 1(b), Sept. 29, 1965, 79 Stat. 886; Pub. L. 89–358, § 4(h), Mar. 3, 1966, 80 Stat. 24; Pub. L. 91–376, § 8(a), Aug. 12, 1970, 84 Stat. 790.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–376 substituted provisions that on or after Oct. 17, 1940, except as provided in sections 775, 784, and chapter 37 of this title, the decisions of the Administrator on any question of law or fact under any law administered by the Veterans' Administration providing benefits for veterans and their dependents or survivors be final and conclusive and no other official or any court of the United States have power or jurisdiction to review any such decision by an action in the nature of mandamus or otherwise, for provisions that, except as provided in the enumerated sections, the decisions of the Administrator on any question of law or fact concerning a claim for benefits or payments under any law administered by the Veterans' Administration be final and conclusive and no other official or any court of the United States have power or jurisdiction to review any such decision.

1966—Subsec. (a). Pub. L. 89–358 struck out references to sections 1661 and 1761.

1965—Subsec. (a). Pub. L. 89–214 inserted reference to section 775.

§ 212. Delegation of authority and assignment of duties

(a) The Administrator may assign duties, and delegate, or authorize successive redelegation of, authority to act and to render decisions, with respect to all laws administered by the Veterans' Administration, to such officers and employees as he may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Administrator.

(b) There shall be included on the technical and administrative staff of the Administrator such staff officers, experts, inspectors, and assistants (including legal assistants), as the Administrator may prescribe.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1115; Pub. L. 89–361, § 2, Mar. 7, 1966, 80 Stat. 30.)

AMENDMENTS

1966—Subsec. (a). Pub. L. 89–361 empowered the Administrator, as he may find necessary, to authorize the successive redelegation to officers and employees of any authority delegated by the Administrator to act and render decisions with respect to laws administered by the Veterans' Administration, and provided that acts and decisions performed within the limitations of such redelegations shall have force and effect as though performed or rendered by the Administrator.

§ 213. Contracts and personal services

The Administrator may, for purposes of all laws administered by the Veterans' Administration, accept uncompensated services, and enter into contracts or agreements with private or public agencies or persons (including contracts for services of translators without regard to any other law), for such necessary services (including personal services) as he may deem practicable. The Administrator may also enter into contracts or agreements with private concerns or public agencies for the hiring of passenger motor vehicles or aircraft for official travel whenever, in his judgment, such arrangements are in the interest of efficiency or economy.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1115; Pub. L. 89–785, title III, § 302, Nov. 7, 1966, 80 Stat. 1376; Pub. L. 91–24, § 2(c), June 11, 1969, 83 Stat. 33.)

AMENDMENTS

1969—Pub. L. 91–24 added "(including contracts for services of translators without regard to any other law)" following "public agencies or persons".

1966—Pub. L. 89–785 empowered the Administrator to enter into contracts or agreements with private concerns or public agencies for the hiring of passenger motor vehicles or aircraft for official travel whenever, in his judgment, such arrangements are in the interest of efficiency or economy.

§ 214. Reports to the Congress

The Administrator shall make annually, at the close of each fiscal year, a report in writing to the Congress, giving an account of all moneys received and disbursed by the Veterans' Administration, describing the work done, and stating the activities of the Veterans' Administration for such fiscal year.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1115.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 245, 618, 654 of this title.

§ 215. Publication of laws relating to veterans

The Administrator may compile and publish all Federal laws relating to veterans' relief, including such laws as are administered by the Veterans' Administration as well as by other agencies of the Government, in such form as he deems advisable for the purpose of making currently available in convenient form for the use of the Veterans' Administration and full-time representatives of the several service organizations an annotated, indexed, and cross-referenced statement of the laws providing veterans' relief. The Administrator may maintain such compilation on a current basis either by the publication, from time to time, of supplementary documents or by complete revision of the compilation. The distribution of the compilation to the representatives of the several service organizations shall be as determined by the Administrator.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1115.)

[§ 216. Repealed. Pub. L. 94-581, title II, § 205(c)(1), Oct. 21, 1976, 90 Stat. 2859]

Section, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1116; Pub. L. 87-572, Aug. 6, 1962, 76 Stat. 307; Pub. L. 88-433, § 1(a) to (c), Aug. 14, 1964, 78 Stat. 441, 442; Pub. L. 89-705, § 1, Nov. 2, 1966, 80 Stat. 1099, directed the Administrator to conduct research in the field of prosthetic appliances, prosthesis, orthopedic appliances, and sensory devices. See section 4101(c) of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

§ 217. Studies of rehabilitation of disabled persons

(a) The Administrator may make or have made studies, investigations, and reports relative to the rehabilitation of disabled persons, the relative abilities, aptitudes, and capacities of the several groups of the variously handicapped, and how their potentialities can best be developed and their services best utilized in gainful and suitable employment including the rehabilitation programs of foreign nations.

(b) In carrying out this section, the Administrator may cooperate with such public and private agencies as he may deem advisable, and may employ consultants who shall receive a reasonable per diem, as prescribed by the Administrator, for each day actually employed, plus necessary travel and other expenses.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1116.)

§ 218. Standards of conduct and arrests for crimes at hospitals, domiciliaries, cemeteries, and other Veterans' Administration reservations

(a) For the purpose of maintaining law and order and of protecting persons and property on lands (including cemeteries) and in buildings under the jurisdiction of the Veterans' Administration (and not under the control of the Administrator of General Services), the Administrator or any officer or employee of the Veterans' Administration duly authorized by him may—

(1) make all needful rules and regulations for the governing of the property under his charge and control, an annex to such rules and regulations such reasonable penalties within the limits prescribed in subsection (b) of this section as will insure their enforcement. Such rules and regulations shall be posted in a conspicuous place on such property;

(2) designate officers and employees of the Veterans' Administration to act as special policemen on such property and, if the Administrator deems it economical and in the public interest, with the concurrence of the head of the agency concerned, utilize the facilities and services of existing Federal law-enforcement agencies, and, with the consent of any State or local agency, utilize the facilities and services of such State or local law-enforcement agencies; and

(3) empower officers or employees of the Veterans' Administration who have been duly authorized to perform investigative functions to act as special investigators and to carry firearms, whether on Federal property or in travel status. Such special investigators shall have, while on real property under the charge and control of the Veterans' Administration, the power to enforce Federal laws for the protection of persons and property and the power to enforce rules and regulations issued under subsection (a)(1) of this section. Any such special investigator may make an arrest with or without a warrant for any offense committed upon such property in his presence or if he has reasonable ground to believe (A) the offense constitutes a felony under the laws of the United States, and (B) that the person to be arrested is guilty of that offense.

(b) Whoever shall violate any rule or regulation issued pursuant to subsection (a)(1) of this section shall be fined not more than $50 or imprisoned not more than thirty days, or both.

(Added Pub. L. 93-43, § 4(a), June 18, 1973, 87 Stat. 79.)

EFFECTIVE DATE

Section effective June 18, 1973, see section 10(a) of Pub. L. 93-43, set out as an Effective Date note under section 1000 of this title.

CROSS REFERENCES

Protection of Federal property under jurisdiction of Administrator of General Services, see sections 318 to 318d of Title 40, Public Buildings, Property, and Works.

§ 219. Evaluation and data collection

(a) The Administrator, pursuant to general standards which he shall prescribe in regulations, shall measure and evaluate on a continuing basis the impact of all programs authorized under this title, in order to determine their effectiveness in achieving stated goals in general, and in achieving such goals in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services. Such information as the Administrator may deem necessary for purposes of such evaluations shall be made available to him, upon request, by all departments, agencies, and instrumentalities of the executive branch.

(b) In carrying out this section, the Administrator shall collect, collate, and analyze on a continuing basis full statistical data regarding participation (including the duration thereof), provision of services, categories of beneficiaries, planning and construction of facilities, acquisition of real property, proposed excessing of land, accretion and attrition of personnel, and categorized expenditures attributable thereto, under all programs carried out under this title.

(c) The Administrator shall make available to the public and on a regular basis provide to the appropriate committees of the Congress copies of all completed evaluative research studies and summaries of evaluations of program impact and effectiveness carried out, and tabulations and analyses of all data collected, under this section.

(Added Pub. L. 93-508, title II, § 213(a), Dec. 3, 1974, 88 Stat. 1586.)

EFFECTIVE DATE

Section effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

§ 220. Coordination of other Federal programs affecting veterans and their dependents.

The Administrator shall seek to achieve the maximum feasible effectiveness, coordination, and interrelationship of services among all programs and activities affecting veterans and their dependents carried out by and under all other departments, agencies, and instrumentalities of the executive branch and shall seek to achieve the maximum feasible coordination of such programs with programs carried out under this title.

(Added Pub. L. 93-508, title II, § 213(a), Dec. 3, 1974, 88 Stat. 1587.)

EFFECTIVE DATE

Section effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

SUBCHAPTER III—VETERANS' ADMINISTRATION REGIONAL OFFICES: EMPLOYEES

§ 230. Central and regional offices

(a) The Central Office of the Veterans' Administration shall be in the District of Columbia. The Administrator may establish such regional offices and such other field offices within the United States, its Territories, Commonwealths, and possessions, as he deems necessary.

(b) The Administrator may exercise authority under this section in territory of the Republic of the Philippines until June 30, 1978.

(c) The Administrator is authorized to establish and maintain an office in Europe, at such location as he deems appropriate, to render technical advice and assistance in the administration of veterans' programs in that area.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1116; Pub. L. 86-103, July 23, 1959, 73 Stat. 224; Pub. L. 87-815, § 5, Oct. 15, 1962, 76 Stat. 927; Pub. L. 91-338, July 16, 1970, 84 Stat. 437; Pub. L. 93-82, title IV, § 401, Aug. 2, 1973, 87 Stat. 196.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93-82 extended the authority of the Administrator from July 3, 1974 to June 30, 1978.

1970—Subsec. (b). Pub. L. 91-338 extended the authority of the Administrator from June 30, 1970, to July 3, 1974.

1962—Subsec. (c). Pub. L. 87-815 added subsec. (c).

1959—Subsec. (b). Pub. L. 86-103 extended the authority of the Administrator from June 30, 1960, to June 30, 1970.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 235, 243 of this title.

§ 231. Placement of employees in military installations

The Administrator may place officers and employees of the Veterans' Administration in such Army, Navy, and Air Force installations as may be deemed advisable for the purpose of adjudicating disability claims of, and giving aid and advice to, members of the Armed Forces who are about to be discharged or released from active military, naval, or air service.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1116.)

[§ 232. Repealed. Pub. L. 91-24, § 2(a), June 11, 1969, 83 Stat. 33]

Section, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1116, provided that the Administrator may contract for the services of translators without regard to certain provisions of law.

§ 233. Employees' apparel; school transportation; recreational equipment; visual exhibits; personal property; emergency transportation of employees

(a) The Administrator, subject to such limitations as he may prescribe, may—

(1) furnish and launder such wearing apparel as may be prescribed for employees in the performance of their official duties;

(2) transport children of Veterans' Administration employees located at isolated stations to and from school in available Government-owned automotive equipment;

(3) provide recreational facilities, supplies, and equipment for the use of patients in hospitals, and employees in isolated installations;

(4) provide for the preparation, shipment, installation, and display of exhibits, photographic displays, moving pictures and other visual educational information and descriptive material; and

(5) reimburse employees for the cost of repairing or replacing their personal property damaged or destroyed by patients or domiciliary members while such employees are engaged in the performance of their official duties.

For the purposes of subparagraph (4), the Administrator may purchase or rent equipment.

(b) The Administrator, when he determines that an emergency situation exists and that such action is necessary for the effective conduct of the affairs of the Veterans' Administration, may utilize Government-owned, or leased, vehicles to transport employees to and from their place of employment and the nearest adequate public transportation, or, if such public transportation is either unavailable or not feasible to use, to and from their place of employment and their home. The Administrator shall establish reasonable rates to cover the cost of the service rendered, and all proceeds collected therefrom shall be applied to the applicable appropriation.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1116; Pub. L. 87-574, § 1(1), Aug. 6, 1962, 76 Stat. 308; Pub. L. 89-785, title III, § 303(a), (b), Nov. 7, 1966, 80 Stat. 1376, 1377.)

AMENDMENTS

1966—Pub. L. 89-785 inserted "; emergency transportation of employees" in the catchline, designated existing provisions as subsec. (a), and added subsec. (b).

1962—Pub. L. 87-574 inserted "; personal property" in section catchline, and added subpar. (5).

§ 234. Telephone service for medical officers and facility directors

The Administrator may pay for official telephone service and rental in the field whenever incurred in case of official telephones for nonmedical directors of centers, hospitals, independent clinics, domiciliaries, and medical officers of the Veterans' Administration where such telephones are installed in private residences or private apartments or quarters, when authorized under regulations established by the Administrator.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1117; Pub. L. 93-82, title IV, § 402(a), (c), Aug. 2, 1973, 87 Stat. 196.)

AMENDMENTS

1973—Pub. L. 93-82 added "and facility directors" in the section catchline and authorized the payment of telephone bills of nonmedical directors of centers, hospitals, independent clinics, and domiciliaries also.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

§ 235. Benefits to employees at oversea offices who are United States citizens

The Administrator may, under such rules and regulations as may be prescribed by the President or his designee, provide to personnel of the Veterans' Administration who are United States citizens and are assigned by the Administrator to the Veterans' Administration offices in the Republic of the Philippines or to the Veterans' Administration office in Europe, established pursuant to section 230(c) of this title allowances and benefits similar to those provided by the following provisions of law:

(1) Section 1131 of title 22 (relating to allowances to provide for the proper representation of the United States).

(2) Section 1136(1), (2), (3), (4), (5), and (7) of title 22 (relating to travel expenses).

(3) Section 1138 of title 22 (relating to transportation of automobiles).

(4) Section 1148 of title 22 (relating to the return of personnel to the United States on leave of absence).

(5) Section 1156 of title 22 (relating to payments by the United States of expenses for treating illness or injury of officers or employees and dependents requiring hospitalization).

The foregoing authority supplements, but is not in lieu of, other allowances and benefits for overseas employees of the Veterans' Administration provided by titles 5 and 22.

(Added Pub. L. 86-116, § 1, July 28, 1959, 73 Stat. 265, and amended Pub. L. 87-815, § 6, Oct. 15, 1962, 76 Stat. 927; Pub. L. 89-300, § 1(c), Oct. 28, 1965, 79 Stat. 1110.)

AMENDMENTS

1965—Pub. L. 89-300 redesignated former subsec. (a) as entire section, deleted obsolete references to repealed or superseded sections of the Foreign Service Act of 1946, restated the current applicable references in terms of United States Code citations, added the sentence providing that the foregoing authority supplements, but is not in lieu of, other allowances and benefits for overseas employees of the Veterans' Administration provided by Titles 5 and 22, and omitted former subsec. (b) which permitted overseas employees of the Veterans' Administration to be granted leaves of absence in the United States similar to that provided by section 203(f) of the Annual and Sick Leave Act of 1951.

1962—Pub. L. 87-815 inserted "or to the Veterans' Administration office established in Europe pursuant to section 230(c) of this title" in two places, and substituted "at oversea offices" for "in the Republic of the Philippines" in the section catchline.

SAVINGS PROVISIONS

Section 1(d) of Pub. L. 89-300 provided that: "All delegations of authority, orders, regulations, directives, or other official actions, with respect to the benefits and allowances provided by such section 235 of title 38, United States Code, shall continue in full force and effect until modified, amended, superseded, or revoked."

§ 236. Administrative settlement of tort claims arising in foreign countries

The Administrator may pay tort claims, in the manner authorized in the first paragraph of section 2672 of title 28, when such claims arise in foreign countries in connection with Veterans' Administration operations abroad. A claim may not be allowed under this section unless it is presented in writing to the Administrator or his designee within two years after the claim accrues.

(Added Pub. L. 89-300, § 1(a), Oct. 28, 1965, 79 Stat. 1110.)

SUBCHAPTER IV—VETERANS OUTREACH SERVICES PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1685, 2003 of this title; title 29 section 981.

§ 240. Purpose; definitions

(a) The Congress declares that the outreach services program authorized by this subchapter is for the purpose of insuring that all veterans, especially those who have been recently discharged or released from active military, naval, or air service and those who are eligible for readjustment or other benefits and services under laws administered by the Veterans' Administration are provided timely and appropriate assistance to aid and encourage them in applying for and obtaining such benefits and services in order that they may achieve a rapid social and economic readjustment to civilian life and obtain a higher standard of living for themselves and their dependents. The Congress further declares that the outreach services program authorized by this subchapter is for the purpose of charging the Veterans' Administration with the affirmative duty of seeking out eligible veterans and eligible dependents and providing them with such services.

(b) For the purposes of this subchapter, (1) the term "other governmental programs" shall include all programs under State or local laws as well as all programs under Federal law other than those authorized by this title, and (2) the term "eligible dependent" means an "eligible person" as defined in section 1701(a)(1) of this title.

(Added Pub. L. 91-219, title II, § 214(a), Mar. 26, 1970, 84 Stat. 84, and amended Pub. L. 92-540, title IV, § 410(a), Oct. 24, 1972, 86 Stat. 1092.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-540 added "and encourage" following "aid".

§ 241. Outreach services

The Administrator shall provide the following outreach services in carrying out the purposes of this subchapter (including the provision, to the maximum feasible extent, of such services, in areas where a significant number of eligible veterans and eligible dependents speak a language other than English as their principal language, in the principal language of such persons):

(1) by letter advise each veteran at the time of his discharge or release from active military, naval, or air service, or as soon as possible thereafter, of all benefits and services under laws administered by the Veterans' Administration for which the veteran may be eligible and, in carrying out this paragraph, the Administrator shall insure, through the utilization of veteran-student services under section 1685 of this title, that contact, in person or by telephone, is made with those veterans who, on the basis of their military service records, do not have a high school education or equivalent at the time of discharge or release;

(2) distribute full information to eligible veterans and eligible dependents regarding all benefits and services to which they may be entitled under laws administered by the Veterans' Administration and may, to the extent feasible, distribute information on other governmental programs (including manpower and training programs) which he determines would be beneficial to veterans; and

(3) provide, to the maximum extent possible, aid and assistance (including personal interviews) to members of the Armed Forces, veterans, and eligible dependents in respect to clauses (1) and (2) above and in the preparation and presentation of claims under laws administered by the Veterans' Administration.

(Added Pub. L. 91-219, title II, § 214(a), Mar. 26, 1970, 84 Stat. 84, and amended Pub. L. 92-540, title IV, § 410(b), Oct. 24, 1972, 86 Stat. 1092; Pub. L. 93-508, title II, § 214(1), (2), Dec. 3, 1974, 88 Stat. 1587.)

AMENDMENTS

1974—Pub. L. 93-508 in provisions preceding cl. (1), substituted "following outreach services in carrying out the purposes of this subchapter (including the provision, to the maximum feasible extent, of such services, in areas where a significant number of eligible dependents speak a language other than English as their principal language, in the principal language of such persons)" for "following outreach services", and in cl. (2), substituted "distribute full information to eligible veterans and eligible dependents" for "distribute full information".

1972—Pub. L. 92-540 in cl. (1) substituted provisions relating to the Administrator making contact, in person or by telephone through the utilization of veteran-student services under section 1685 of this title, with those veterans who, on the basis of their military service records, do not have a high school education or equivalent at the time of discharge or release, for provisions relating to the Administrator giving priority to so advising such veterans.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 243 of this title.

§ 242. Veterans assistance offices

(a) The Administrator shall establish and maintain veterans assistance offices at such places througout the United States and its territories and possessions, and the Commonwealth of Puerto Rico, as he determines to be necessary to carry out the purposes of this subchapter, with due regard for the geographical distribution of veterans recently discharged or released from active military, naval, or air service, the special needs of educationally disadvantaged veterans (including their need for accessibility of outreach services), and the necessity of providing appropriate outreach services in less populated areas.

(b) The Administrator shall establish and carry out all possible programs and services, including special telephone facilities, as may be necessary to make the outreach services provided for under this subchapter as widely available as possible.

(Added Pub. L. 91-219, title II, § 214(a), Mar. 26, 1970, 84 Stat. 85, and amended Pub. L. 93-508, title II, § 214(3), Dec. 3, 1974, 88 Stat. 1587.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93-508 substituted "shall establish and carry out all possible programs and services, including special telephone facilities," for "may implement such special telephone service".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

§ 243. Veterans' representatives

(a)(1) Except as otherwise provided in paragraph (4) of this subsection, the Administrator shall assign, with appropriate clerical/secretarial support, to each educational institution (as defined in section 1652(c) except for correspondence schools) where at least five hundred persons are enrolled under chapters 31, 34, 35, and 36 of this title such number of full-time veterans' representatives as will provide at least one such veterans' representative per each five hundred such persons so enrolled at each such institution; and the Administrator shall also assign to other such veterans' representatives responsibility for carrying out the functions set forth in paragraph (3) of this subsection with respect to groups of institutions with less than five hundred such persons so enrolled, on the basis of such proportion of such veterans' representatives' time to such persons so enrolled as he deems appropriate to be adequate to perform such functions at such institutions.

(2) In selecting and appointing veterans' representatives under this subsection, preference shall be given to veterans of the Vietnam era with experience in veterans affairs' counseling, outreach, and other related veterans' services.

(3) The functions of such veterans' representatives shall be to—

(A) answer all inquiries related to Veterans' Administration educational assistance and other benefits, and take all necessary action to resolve such inquiries expeditiously, especially those relating to payments of educational assistance benefits;

(B) assure correctness and proper handling of applications, completion of certifications of attendance, and submission of all necessary information (including changes in status or program affecting payments) in support of benefit claims submitted;

(C) maintain active liaison, communication, and cooperation with the officials of the educational institution to which assigned, in order to alert veterans to changes in law and Veterans' Administration policies or procedures;

(D) supervise and expeditiously resolve all difficulties relating to the delivery of advance educational assistance payments authorized under this title;

(E) coordinate Veterans' Administration matters with, and provide appropriate briefings to, all on-campus veterans' groups, working particularly closely with veterans' coordinators at educational institutions receiving veterans' cost-of-instruction payments under section 420 of the Higher Education Act of 1965, as amended (hereinafter referred to as "V.C.I. institutions");

(F) provide necessary guidance and support to veteran-student services personnel assignd to the campus under section 1685 of this title;

(G) where such functions are not being adequately carried out by existing programs at such institutions (i) provide appropriate motivational and other counseling to veterans (informing them of all available benefits and services, as provided for under section 241 of this title) and (ii) carry out outreach activities under this subchapter; and

(H) carry out such other activities as may be assigned by the director of the Veterans' Administration regional office, established under section 230 of this title.

(4) Based on the extent to which the functions set forth in paragraph (3) of this subsection are being adequately carried out at a particular educational institution or in consideration of other factors indicating the inappropriateness of assignment of veterans' representatives to a particular educational institution, the director of the appropriate Veterans' Administration regional office shall, notwithstanding the formula set forth in paragraph (1) of this subsection, either reallocate such veterans' representatives to other educational institutions in such region where he determines that such additional veterans' representatives are necessary, or, with the approval of the chief benefits officer of the Veterans' Administration, assign such veterans' representatives to carry out such functions or related activities at the regional office in question, with special responsibility for one or more than one particular educational institution.

(5) The functions of a veterans' representative assigned under this subsection shall be carried out in such a way as to complement and not interfere with the statutory responsibilities and duties of persons carrying out veterans affairs' functions at V.C.I. institutions.

(b) The Administrator shall establish rules and procedures to guide veterans' representatives in carrying out the functions under this section. Such rules and procedures shall contain provisions directed especially to assuring that the activities of veterans' representatives carried out under this section complement, and do not interfere with, the established responsibilities of representatives recognized by the Administrator under section 3402 of this title.

(Added Pub. L. 93-508, title II, § 214(4), Dec. 3, 1974, 88 Stat. 1587.)

REFERENCES IN TEXT

Section 420 of the Higher Education Act of 1965, referred to in subsec. (a)(3)(E), is section 420 of Pub. L. 89-329, title IV, as added Pub. L. 93-318, title X, § 1001(a), June 23, 1972, 86 Stat 378, which is classified to section 1070e-1 of Title 20, Education.

EFFECTIVE DATE

Section effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

§ 244. Utilization of other agencies

In carrying out the purposes of this subchapter, the Administrator shall—

(1) arrange with the Secretary of Labor for the State employment service to match the particular qualifications of an eligible veteran or eligible dependent with an appropriate job or job training opportunity, to include where possible, arrangements for outstationing the State employment personnel who provide such assistance at appropriate facilities of the Veterans' Administration;

(2) cooperate with and use the services of any Federal department or agency or any State or local governmental agency or recognized national or other organization;

(3) where appropriate, make referrals to any Federal department or agency or State or local governmental unit or recognized national or other organization;

(4) at his discretion, furnish available space and office facilities for the use of authorized representatives of such governmental unit or other organization providing services; and

(5) conduct and provide for studies in consultation with appropriate Federal departments and agencies to determine the most effective program design to carry out the purposes of this subchapter.

(Added Pub. L. 91-219, title II, § 214(a), Mar. 26, 1970, 84 Stat. 85, § 243, renumbered § 244, and amended Pub. L. 93-508, title II, § 214(4), (5), Dec. 3, 1974, 88 Stat. 1587, 1588.)

AMENDMENTS

1974—Pub. L. 93-508, § 214(5), in provisions preceding cl. (1), substituted "the Administrator shall" for "the Administrator may", and in cl. (5), substituted "conduct and provide for studies in" for "conduct studies in".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

§ 245. Report to Congress

The Administrator shall include in the annual report to the Congress required by section 214 of this title a report on the activities carried out under this subchapter, each report to include an appraisal of the effectiveness of the programs authorized herein and recommendations for the improvement or more effective administration of such programs.

(Added Pub. L. 91-219, title II, § 214(a), Mar. 26, 1970, 84 Stat. 85, § 244, renumbered § 245, Pub. L. 93-508, title II, § 214(4), Dec. 3, 1974, 88 Stat. 1587.)

PART II—GENERAL BENEFITS

Chap.		Sec.
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13.	Dependency and Indemnity Compensation for Service-Connected Deaths	401
15.	Pension for Non-Service-Connected Disability or Death or for Service	501
17.	Hospital, Nursing Home, Domiciliary and Medical Care	601
19.	Insurance	701
21.	Specially Adapted Housing for Disabled Veterans	801
23.	Burial Benefits	901
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AMENDMENTS

1976—Pub. L. 94-581, title II, § 203(a), Oct. 21, 1976, 90 Stat. 2856, inserted "Nursing Home," in item 17 of the analysis of chapters comprising part II.

1973—Pub. L. 93-43, § 2(b), June 18, 1973, 87 Stat. 78, added chapter 24.

CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

SUBCHAPTER I—GENERAL

Sec.
301. Definitions.
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SUBCHAPTER II—WARTIME DISABILITY COMPENSATION

310. Basic entitlement.
311. Presumption of sound condition.
312. Presumptions relating to certain diseases and disabilities.
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SUBCHAPTER III—WARTIME DEATH COMPENSATION

321. Basic entitlement.
322. Rates of wartime death compensation.

SUBCHAPTER IV—PEACETIME DISABILITY COMPENSATION

331. Basic entitlement.
332. Presumption of sound condition.
333. Presumptions relating to certain diseases.
334. Rates of peacetime disability compensation.
335. Additional compensation for dependents.
[336. Repealed.]
337. Wartime presumptions for certain veterans.

SUBCHAPTER V—PEACETIME DEATH COMPENSATION

Sec.
341. Basic entitlement.
342. Rates of peacetime death compensation.
[343. Repealed.]

SUBCHAPTER VI—GENERAL COMPENSATION PROVISIONS

351. Benefis for persons disabled by treatment or vocational rehabilitation.
352. Persons heretofore having a compensable status.
353. Aggravation.
354. Consideration to be accorded time, place, and circumstances of service.
355. Authority for schedule for rating disabilities.
[356. Repealed.]
357. Combination of certain ratings.
358. Disappearance.
359. Protection of service connection.
360. Special consideration for certain cases of blindness or bilateral kidney involvement or bilateral deafness.
361. Payment of disability compensation in disability severance cases.[1]
362. Clothing allowance.

AMENDMENTS

1976—Pub. L. 94-433, title IV, §§ 401(1), 404(5), Sept. 30, 1976, 90 Stat. 1377, 1378, substituted in item 302 "surviving spouses" for "widows" and struck out item "356. Minimum rating for arrested tuberculosis".

1974—Pub. L. 93-295, title II, § 206(c), May 31, 1974, 88 Stat. 183, struck out item 343.

1972—Pub. L. 92-328, title I, §§ 103(b), 108(d), June 30, 1972, 86 Stat. 394, 396, struck out item 336 "Conditions under which wartime rates payable", and added item 362.

1970—Pub. L. 91-376, § 3(c), Aug. 12, 1970, 84 Stat. 789, inserted reference to disabilities in item 312.

1966—Pub. L. 89-358, § 7(b), Mar. 3, 1966, 80 Stat. 27, added item 337.

1965—Pub. L. 89-311, § 3(c), Oct. 31, 1965, 79 Stat. 1155, inserted reference to bilateral deafness in item 360.

1962—Pub. L. 87-610, § 2, Aug. 28, 1962, 76 Stat. 406, added item 360.

1960—Pub. L. 86-501, § 2, June 10, 1960, 74 Stat. 195, added item 359.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 106, 107, 410, 415, 503, 612, 801, 1502, 1685, 1701, 1901, 2013, 3110 of this title; title 10 section 1446; title 42 section 6862.

SUBCHAPTER I—GENERAL

§ 301. Definitions

For the purposes of this chapter—

(1) The term "veteran" includes a person who died in the active military, naval, or air service.

(2) The term "period of war" includes, in the case of any veteran—

(A) any period of service performed by such veteran after November 11, 1918, and before July 2, 1921, if such veteran served in the active military, naval, or air service after April 5, 1917, and before November 12, 1918; and

(B) any period of continuous service performed by such veteran after December 31, 1946, and before July 26, 1947, if such period began before January 1, 1947.

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[1] Section was included in analysis editorially, and not by Pub. L. 91-241, May 7, 1970, 84 Stat. 203, which enacted section.

(3) The term "chronic disease" includes—
Anemia, primary
Arteriosclerosis
Arthritis
Atrophy, progressive muscular
Brain hemorrhage
Brain thrombosis
Bronchiectasis
Calculi of the kidney, bladder, or gallbladder
Cardiovascular-renal disease, including hypertension
Cirrhosis of the liver
Coccidioidomycosis
Diabetes mellitus
Encephalitis lethargica residuals
Endocarditis
Endocrinopathies
Epilepsies
Hansen's disease
Hodgkin's disease
Leukemia
Myasthenia gravis
Myelitis
Myocarditis
Nephritis
Organic diseases of the nervous system
Osteitis deformans (Paget's disease)
Osteomalacia
Palsy, bulbar
Paralysis agitans
Psychoses
Purpura idiopathic, hemorrhagic
Raynaud's disease
Sarcoidosis
Scleroderma
Sclerosis, amyotrophic lateral
Sclerosis, multiple
Syringomyelia
Thromboangiitis obliterans (Buerger's disease)
Tuberculosis, active
Tumors, malignant, or of the brain or spinal cord or peripheral nerves
Ulcers, peptic (gastric or duodenal)

and such other chronic diseases as the Administrator may add to this list;

(4) The term "tropical disease" includes—
Amebiasis
Blackwater fever
Cholera
Dracontiasis
Dysentery
Filiariasis
Hansen's disease
Leishmaniasis, including kala-azar
Loiasis
Malaria
Onchocerciasis
Oroya fever
Pinta
Plague
Schistosomiasis
Yaws
Yellow fever

and such other tropical diseases as the Administrator may add to this list.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1118; Pub. L. 94-433, title IV, §§ 401(2), (3), 404(1), Sept. 30, 1976, 90 Stat. 1377, 1378.)

AMENDMENTS

1976—Par. (2)(A), (B). Pub. L. 94-433, § 404(1), substituted "such veteran" for "him" in clauses (A) and (B).

Par. (3). Pub. L. 94-433, § 401(2), substituted "Hansen's disease" for "Leprosy".

Par. (4). Pub. L. 94-433, § 401(3), inserted "Hansen's disease" following "Filiariasis" and deleted "Leprosy" preceding "Loiasis".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 406 of Pub. L. 94-433 provided that: "The provisions of this Act [which enacted section 315(1)(I) and 908 of this title, amended sections 301(2)(A), (b), (3), (4), 302, 314(a) to (p), (r), (s), 315(1)(A) to (H), (J), (2), 321, 322, 341, 351, 354(a), 358, 360-362, 402 404, 410 to 414, 416(a), (b)(1), (c), (d), (e)(1), (3), 421, 422(a), 423, 806(c), 1901(1), and 3012(b)(2), (9) of this title, and enacted provisions set out as notes under sections 101, 301, 314, and 410 of this title] shall become effective on October 1, 1976."

AMPUTEES, CARDIOVASCULAR DISORDERS; STUDY

Section 403 of Pub. L. 94-433 required the Administrator to conduct a scientific study to determine if there is causal relationship between the amputation of an extremity and the subsequent development of cardiovascular disorders and to report to the Speaker and the President of the Senate not later than June 30, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 sections 3501, 5532, 6303, 8332.

§ 302. Special provisions relating to surviving spouses

(a) No compensation shall be paid to the surviving spouse of a veteran under this chapter unless such surviving spouse was married to such veteran—

(1) before the expiration of fifteen years after the termination of the period of service in which the injury or disease causing the death of the veteran was incurred or aggravated; or

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

(b) Subsection (a) shall not be applicable to any surviving spouse who, with respect to date of marriage, could have qualified as a surviving spouse for death compensation under any law administered by the Veterans' Administration in effect on December 31, 1957.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1119; Pub. L. 86-491, June 8, 1960, 74 Stat. 161; Pub. L. 90-77, title I, § 101(a), Aug. 31, 1967, 81 Stat. 178; Pub. L. 94-433, title IV, § 404(2)-(4), Sept. 30, 1976, 90 Stat. 1378.)

AMENDMENTS

1976—Pub. L. 94-433, § 404(4), substituted "surviving spouses" for "widows" in section catchline.

Subsec. (a). Pub. L. 94-433, § 404(2), substituted "surviving spouse of a veteran under this chapter unless such surviving spouse was married to such veteran" for "widow of a veteran under this chapter unless she was married to him".

Subsec. (b). Pub. L. 94-433, § 404(3), substituted "surviving spouse" for "widow" in two instances.

1967—Subsec. (a). Pub. L. 90-77 qualified widow of a veteran for receipt of compensation by reducing in par. (2) the requisite marriage period from five years to one year and by making her eligible for benefits in par. (3) in event of antenuptial birth.

1960—Subsec. (a). Pub. L. 86-491 substituted "fifteen years" for "ten years" in cl. (1).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

SUBCHAPTER II—WARTIME DISABILITY COMPENSATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 357 of this title.

§ 310. Basic entitlement

For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is the result of the veteran's own willful misconduct.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1119.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 311, 312, 314 of this title.

§ 311. Presumption of sound condition

For the purposes of section 310 of this title, every veteran shall be taken to have been in sound condition when examined, accepted, and enrolled for service, except as to defects, infirmities, or disorders noted at the time of the examination, acceptance, and enrollment, or where clear and unmistakable evidence demonstrates that the injury or disease existed before acceptance and enrollment and was not aggravated by such service.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1119.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 337 of this title.

§ 312. Presumptions relating to certain diseases and disabilities

(a) For the purposes of section 310 of this title, and subject to the provisions of section 313 of this title, in the case of any veteran who served for ninety days or more during a period of war—

(1) a chronic disease becoming manifest to a degree of 10 per centum or more within one year from the date of separation from such service;

(2) a tropical disease, and the resultant disorders or disease originating because of therapy, administered in connection with such diseases, or as a preventative thereof, becoming manifest to a degree of 10 per centum or more within one year from the date of separation from such service, or at a time when standard or accepted treatises indicate that the incubation period thereof commenced during such service;

(3) active tuberculous disease developing a 10 per centum degree of disability or more within three years from the date of separation from such service;

(4) multiple sclerosis developing a 10 per centum degree of disability or more within seven years from the date of separation from such service;

(5) Hansen's disease developing a 10 per centum degree of disability or more within three years from the date of separation from such service;

shall be considered to have been incurred in or aggravated by such service, notwithstanding there is no record of evidence of such disease during the period of service.

(b) For the purposes of subsection (c) of this section, any veteran who, while serving in the active military, naval, or air service, was held as a prisoner of war for not less than six months by the Imperial Japanese Government or the German Government during World War II, by the Government of North Korea during the Korean conflict, or by the Government of North Korea, the Government of North Vietnam or the Viet Cong forces during the Vietnam era, or by their respective agents, shall be deemed to have suffered from dietary deficiencies, forced labor, or inhumane treatment in violation of the terms of the Geneva Conventions of July 27, 1929, and August 12, 1949.

(c) For the purposes of section 310 of this title and subject to the provisions of section 313 of this title, in the case of any veteran who, while serving in the active military, naval, or air service and while held as a prisoner of war by an enemy government, or its agents during World War II, the Korean conflict, or the Vietnam era, suffered from dietary deficiencies, forced labor, or inhumane treatment (in violation of the terms of the Geneva Conventions of July 27, 1929, and August 12, 1949), the disease of—

(1) Avitaminosis,
Beriberi (including beriberi heart disease),
Chronic dysentary,
Helminthiasis,
Malnutrition (including optic atrophy associated with malnutrition),
Pellagra, or
Any other nutritional deficiency,

which became manifest to a degree of 10 per centum or more after such service; or

(2) Psychosis which became manifest to a degree of 10 per centum or more within two years from the date of separation from such service;

shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1120; Pub. L. 86-187, Aug. 25, 1959, 73 Stat. 418; Pub.

L. 86-188, Aug. 25, 1959, 73 Stat. 418; Pub. L. 87-645, § 3, Sept. 7, 1962, 76 Stat. 442; Pub. L. 91-376, § 3, Aug. 12, 1970, 84 Stat. 788.)

AMENDMENTS

1970—Pub. L. 91-376 inserted reference to disabilities in section catchline, designated existing provisions as subsec. (a), and added subsecs. (b) and (c).

1962—Pub. L. 87-645 substituted "seven years" for "three years" in par. (4).

1959—Pub. L. 86-188 inserted par. (5).

Pub. L. 86-187 substituted "three years" for "two years" in Par. (4).

EFFECTIVE DATE OF 1962 AMENDMENT

Section 4 of Pub. L. 87-645 provided that: "This Act [amending sections 313, 314, and 3203 of this title, and enacting provisions set out as a note under section 314 of this title] shall take effect on the first day of the first calendar month which begins after the date of enactment of this Act [Sept. 7, 1962] but no payments shall be made by reason of this Act for any period before such effective date. The increased rate of compensation payable to any veteran entitled thereto on such first day shall be further increased, for such month only, in an amount equal to three times the monthly increase provided for such veteran by the amendments made by this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 313, 337 of this title.

§ 313. Presumptions rebuttable

(a) Where there is affirmative evidence to the contrary, or evidence to establish that an intercurrent injury or disease which is a recognized cause of any of the diseases within the purview of section 312 of this title, has been suffered between the date of separation from service and the onset of any such diseases, or the disability is due to the veteran's own willful misconduct, service-connection pursuant to section 312 of this title will not be in order.

(b) Nothing in section 312 of this title or subsection (a) of this section shall be construed to prevent the granting of service-connection for any disease or disorder otherwise shown by sound judgment to have been incurred in or aggravated by active military, naval, or air service.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1120.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 312, 337 of this title.

§ 314. Rates of wartime disability compensation

For the purposes of section 310 of this title—

(a) if and while the disability is rated 10 per centum the monthly compensation shall be $38;

(b) if and while the disability is rated 20 per centum the monthly compensation shall be $70;

(c) if and while the disability is rated 30 per centum the monthly compensation shall be $106;

(d) if and while the disability is rated 40 per centum the monthly compensation shall be $145;

(e) if and while the disability is rated 50 per centum the monthly compensation shall be $203;

(f) if and while the disability is rated 60 per centum the monthly compensation shall be $255;

(g) if and while the disability is rated 70 per centum the monthly compensation shall be $302;

(h) if and while the disability is rated 80 per centum the monthly compensation shall be $350;

(i) if and while the disability is rated 90 per centum the monthly compensation shall be $393;

(j) if and while the disability is rated as total the monthly compensation shall be $707;

(k) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of one or more creative organs, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, or has suffered complete organic aphonia with constant inability to communicate by speech, or deafness of both ears, having absence of air and bone conduction, the rate of compensation therefor shall be $56 per month for each such loss or loss of use independent of any other compensation provided in subsections (a) through (j) or subsection (s) of this section but in no event to exceed $879 per month; and in the event the veteran has suffered one or more of the disabilities heretofore specified in this subsection, in addition to the requirement for any of the rates specified in subsections (*l*) through (n) of this section, the rate of compensation shall be increased by $56 per month for each such loss or loss of use, but in no event to exceed $1,231 per month;

(*l*) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both hands, or both feet, or of one hand and one foot, or is blind in both eyes, with 5/200 visual acuity or less, or is permanently bedridden or so helpless as to be in need of regular aid and attendance, the monthly compensation shall be $879;

(m) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of two extremities at a level, or with complications, preventing natural elbow or knee action with prosthesis in place, or has suffered blindness in both eyes having only light perception, or has suffered blindness in both eyes, rendering such veteran so helpless as to be in need of regular aid and attendance, the monthly compensation shall be $968;

(n) if the veteran, as the result of service-connected disability, has suffered the anatomical loss of two extremities so near the shoulder or hip as to prevent use of a prosthetic appliance or has suffered the anatomical loss of both eyes, the monthly compensation shall be $1,099;

(*o*) if the veteran, as the result of service-connected disability, has suffered disability under conditions which would entitle such veteran to two or more of the rates provided in one or more subsections (*l*) through (n) of this section, no condition being considered twice in the determination, or if the veteran

has suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 60 per centum or more disabling and the veteran has also suffered service-connected total blindness with 5/200 visual acuity or less, the monthly compensation shall be $1,231;

(p) in the event the veteran's service-connected disabilities exceed the requirements for any of the rates prescribed in this section, the Administrator may allow the next higher rate or an intermediate rate, but in no event in excess of $1,231. In the event the veteran has suffered service-connected blindness with 5/200 visual acuity or less and (1) has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at no less than 40 per centum disabling, the Administrator shall allow the next higher rate, or (2) has also suffered service-connected total deafness in one ear, the Administrator shall allow the next intermediate rate, but in no event in excess of $1,231;

[(q) Repealed. Pub. L. 90-493, § 4(a), Aug. 19, 1968, 82 Stat. 809]

(r) if any veteran, otherwise entitled to the compensation authorized under subsection (o) of this section, or the maximum rate authorized under subsection (p) of this section, is in need of regular aid and attendance, such veteran shall be paid in addition to such compensation, a monthly aid and attendance allowance at the rate of $528 per month subject to the limitations of section 3203(e) of this title. For the purposes of section 334 of this title, such allowance shall be considered as additional compensation payable for disability.

(s) if the veteran has a service-connected disability rated as total, and (1) has additional service-connected disability or disabilities independently ratable at 60 per centum or more, or (2) by reason of such veteran's service-connected disability or disabilities, is permanently housebound, then the monthly compensation shall be $791. For the purpose of this subsection, the requirement of "permanently housebound" will be considered to have been met when the veteran is substantially confined to such veteran's house (ward or clinical areas, if institutionalized) or immediate premises due to a service-connected disability or disabilities which it is reasonably certain will remain throughout such veteran's lifetime.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1120; Pub. L. 85-782, § 2, Aug. 27, 1958, 72 Stat. 936; Pub. L. 86-663, § 1, July 14, 1960, 74 Stat. 528; Pub. L. 87-645, §§ 1(a), 2(a), Sept. 7, 1962, 76 Stat. 441; Pub. L. 88-20, § 1, May 15, 1963, 77 Stat. 17; Pub. L. 88-22, § 1, May 15, 1963, 77 Stat. 18; Pub. L. 89-311, §§ 1(a), 3(d), (e), Oct. 31, 1965, 79 Stat. 1154, 1155; Pub. L. 90-77, title IV, § 401, Aug. 31, 1967, 81 Stat. 190; Pub. L. 90-493, §§ 1(a), 4(a), Aug. 19, 1968, 82 Stat. 808, 809; Pub. L. 91-376, § 1(a), Aug. 12, 1970, 84 Stat. 787; Pub. L. 92-328, title I, § 101(a), June 30, 1972, 86 Stat. 393; Pub. L. 93-295, title I, § 101(a), May 31, 1974, 88 Stat. 181; Pub. L. 94-71, title I, § 101(a), Aug. 5, 1975, 89 Stat. 395; Pub. L. 94-433, title I, § 101(a), title IV, §§ 401(4), (5), 404(6)-(8), Sept. 30, 1976, 90 Stat. 1374, 1377, 1378.)

CODIFICATION

Section 1 of Pub. L. 88-20 inserted in subsec. (k) "or deafness of both ears, having absence of air and bone conduction," following "having only light perception," in two places. Section 1 of Pub. L. 88-22 also inserted in subsec. (k) "or has suffered complete organic aphonia with constant inability to communicate by speech," following "having only light perception," in two places. The amendments were executed to subsec. (k) in conformity with the Congressional order of enactment.

AMENDMENTS

1976—Subsecs. (a) to (*l*). Pub. L. 94-433, § 101(a)(1) to (12), increased the compensation in subsec. (a) from $35 to $38, subsec. (b) from $65 to $70, subsec. (c) from $98 to $106, subsec. (d) from $134 to $145, subsec. (e) from $188 to $203, subsec. (f) from $236 to $255, subsec. (g) from $280 to $302, subsec. (h) from $324 to $350, subsec. (i) from $364 to $393, subsec. (j) from $655 to $707, subsec. (k) from $52, $814, and $1,139 to $56, $879, and $1,231, respectively, and subsec. (*l*) from $814 to $879.

Subsec. (m). Pub. L. 94-433, § 101(a)(13), 404(6), increased the compensation from $896 to $968 and substituted "such veteran" for "him", respectively.

Subsec. (n). Pub. L. 94-433, § 101(a)(14), increased the compensation from $1,018 to $1,099.

Subsec. (*o*). Pub. L. 94-433, §§ 101(a)(15), 401(4), 404(6), increased the compensation from $1,139 to $1,231, deleted "in combination with total blindness with 5/200 visual acuity or less," preceding "the monthly compensation", and substituted "such veteran" for "him", respectively.

Subsec. (p). Pub. L. 94-433, §§ 101(a)(15), 404(7), increased the compensation from $1,139 to $1,231 and deleted ", in his discretion," preceding "may allow", respectively.

Subsec. (r). Pub. L. 94-433, §§ 101(a)(16), 401(5), 404(8), increased the compensation from $489 to $528 and substituted reference to section "3203(e)" for "3203(f)" of this title and "such veteran" for "he", respectively.

Subsec. (s). Pub. L. 94-433, §§ 101(a)(17), 404(8), increased the compensation from $732 to $791 and substituted "such veteran's" for "his" following "by reason of" and preceding "house", respectively.

1975—Subsecs. (a) to (p), (r), (s). Pub. L. 94-71 increased the compensation in subsec. (a) from $32 to $35, subsec. (b) from $59 to $65, subsec. (c) from $89 to $98, subsec. (d) from $122 to $134, subsec. (e) from $171 to $188, subsec. (f) from $211 to $236, subsec. (g) from $250 to $280, subsec. (h) from $289 to $324, subsec. (i) from $325 to $364, subsec. (j) from $584 to $655, subsec. (k) from $727 and $1,017 to $814 and $1,139 respectively, subsec. (*l*) from $727 to $814, subsec. (m) from $800 to $896, subsec. (n) from $909 to $1,018, subsec. (o) from $1,017 to $1,139, subsec. (p) from $1,017 to $1,139, subsec. (r) from $437 to $489, and subsec. (s) from $654 to $732.

1974—Subsecs. (a) to (p), (r), (s). Pub. L. 93-295 increased the compensation in subsec. (a) from $28 to $32, subsec. (b) from $51 to $59, subsec. (c) from $77 to $89, subsec. (d) from $106 to $122, subsec. (e) from $149 to $171, subsec. (f) from $179 to $211, subsec. (g) from $212 to $250, subsec. (h) from $245 to $289, subsec. (i) from $275 to $325, subsec. (j) from $495 to $584, subsec. (k) from $47, $616 and $862 to $52, $727 and $1,017, respectively, subsec. (*l*) from $616 to $727, subsec. (m) from $678 to $800, subsec. (n) from $770 to $909, subsec. (o) from $862 to $1,017, subsec. (p) from $862 to $1,017, subsec. (r) from $370 to $437, and subsec. (s) from $554 to $654.

1972—Subsecs. (a) to (p), (r), (s). Pub. L. 92-328 increased the compensation in subsec. (a) from $25 to $28, subsec. (b) from $46 to $51, subsec. (c) from $70 to $77, subsec. (d) from $96 to $106, subsec. (e) from $135 to $149, subsec. (f) from $163 to $179, subsec. (g) from

$193 to $212, subsec. (h) from $223 to $245, subsec. (i) from $250 to $275, subsec. (j) from $450 to $495, subsec. (k) from $560 to $616 and $784 to $862, respectively, subsec. (*l*) from $560 to $616, subsec. (m) from $616 to $678, subsec. (n) from $700 to $770, subsec. (*o*) from $784 to $862, subsec. (p) from $784 to $862, subsec. (r) from $336 to $370, and subsec. (s) from $504 to $554.

1970—Subsecs. (a) to (p), (r), (s). Pub. L. 91-376 increased the compensation in subsec. (a) from $23 to $25, subsec. (b) from $43 to $46, subsec. (c) from $65 to $70, subsec. (d) from $89 to $96, subsec. (e) from $122 to $135, subsec. (f) from $147 to $163, subsec. (g) from $174 to $193, subsec. (h) from $201 to $223, subsec. (i) from $226 to $250, subsec. (j) from $400 to $450, subsec. (k) from $500 and $700 to $560 and $784, respectively, subsec. (*l*) from $500 to $560, subsec. (m) from $550 to $616, subsec. (n) from $625 to $700, subsec. (*o*) from $700 to $784, subsec. (p) from $700 to $784, subsec. (r) from $300 to $336, and subsec. (s) from $450 to $504.

1968—Subsecs. (a) to (p). Pub. L. 90-493, § 1(a)(1) to (14), (17), increased the compensation in subsec. (a) from $21 to $23, subsec. (b) from $40 to $43, subsec. (c) from $60 to $65, subsec. (d) from $82 to $89, subsec. (e) from $113 to $122, subsec. (f) from $136 to $147, subsec. (g) from $161 to $174, subsec. (h) from $186 to $201, subsec. (i) from $209 to $226, subsec. (j) from $300 to $400, subsec. (k) from $600 and $400 to $700 and $500, respectively, subsec. (*l*) from $400 to $500, subsec. (m) from $450 to $550, subsec. (n) from $525 to $625, subsec. (*o*) from $600 to $700, and subsec. (p) from $600 to $700.

Subsec. (q). Pub. L. 90-493, § 4(a), struck out provision that if the veteran is shown to have had a service-connected disability resulting from an active tuberculous disease, the monthly compensation shall be not less than $67, provided that, in the judgment of the Administrator, the disease has reached a condition of complete arrest.

Subsecs. (r), (s). Pub. L. 90-493, § 1(a)(15), (16), increased the compensation in subsec. (r) from $250 to $300, and in subsec. (s) from $350 to $450.

1967—Subsec. (k). Pub. L. 90-77 substituted "one or more creative organs" for "a creative organ" and "in the event the veteran has suffered one or more of the disabilities heretofore specified in this subsection" for "in the event of anatomical loss or loss of use of a creative organ, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, or has suffered complete organic aphonia with constant inability to communicate by speech, or deafness of both ears, having absence of air and bone conduction" and inserted following "$47 per month" where initially appearing "for each such loss or loss of use", reference to subsec. (s) of this section and limitation of compensation to $400 per month.

1965—Subsecs. (a) to (m). Pub. L. 89-311, § 1(a)(1) to (14), increased the compensation in subsec. (a) from $20 to $21, subsec. (b) from $38 to $40, subsec. (c) from $58 to $60, subsec. (d) from $77 to $82, subsec. (e) from $107 to $113, subsec. (f) from $128 to $136, subsec. (g) from $149 to $161, subsec. (h) from $170 to $186, subsec. (i) from $191 to $209, subsec. (j) from $250 to $300, subsec. (k) from $525 to $600, subsec. (*l*) from $340 to $400, subsec. (m) from $390 to $450, and subsec. (n) from $440 to $525.

Subsec. (*o*). Pub. L. 89-311, §§ 1(a)(11), 3(d), increased the rate of compensation from $525 to $600 and relaxed the requirement of total deafness by requiring only bilateral deafness (if the hearing impairment in either one or both ears is service connected) rated at 60 per centum or more disabling.

Subsec. (p). Pub. L. 89-311, § 3(e), increased from $525 to $600 the allowable maximum rates when service-connected disabilities exceed the requirements for any of the prescribed rates and inserted specific reference to an increase to the next higher rate in the case of service-connected blindness and bilateral deafness and an increase to the next intermediate rate in the case of service-connected total deafness in one ear.

Subsec. (r). Pub. L. 89-311, § 1(a)(15), substituted "$250" for "$200".

Subsec. (s). Pub. L. 89-311, § 1(a)(16), substituted "$350" for "$290".

1963—Subsec. (k). Pub. L. 88-22 provided increased compensation for veterans suffering complete organic aphonia with constant inability to communicate by speech.

Pub. L. 88-20 provided increased compensation for veterans suffering deafness of both ears, having absence of air and bone conduction.

1962—Subsecs. (a) to (p). Pub. L. 87-645, § 1(a)(1) to (14), increased the monthly compensation in subsec. (a) from $19 to $20, subsec. (b) from $36 to $38, subsec. (c) from $55 to $58, subsec. (d) from $73 to $77, subsec. (e) from $100 to $107, subsec. (f) from $120 to $128, subsec. (g) from $140 to $149, subsec. (h) from $160 to $170, subsec. (i) from $179 to $191, subsec. (j) from $225 to $250, subsec. (k) from $450 to $525, subsec. (*l*) from $309 to $340, subsec. (m) from $359 to $390, subsec. (n) from $401 to $440, and subsec. (*o*) and (p) from $450 to $525.

Subsec. (r). Pub. L. 87-645, §§ 1(a)(15), 2(a), increased the monthly compensation from $150 to $200, and substituted ", subject to the limitations of section 3203(f) of this title" for "for all periods during which he is not hospitalized at Government expense".

Subsec. (s). Pub. L. 87-645, § 1(a)(16), increased the monthly compensation from $265 to $290.

1960—Subsec. (s). Pub. L. 86-663 added subsec. (s).

1958—Subsec. (r). Pub. L. 85-782 added subsec. (r).

Effective Date of 1976 Amendment

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

Effective Date of 1975 Amendment

Section 301 of Pub. L. 94-71 provided that: "The provisions of this Act [amending sections 314, 315, 362, 411, 413, 414, and 3010 of this title and enacting provisions set out as notes under this section and section 411 of this title] shall become effective August 1, 1975."

Effective Date of 1974 Amendment

Section 401 of Pub. L. 93-295 provided that: "The provisions of this Act [amending sections 314, 315, 322, 337, 342, 411, 413, and 414 of this title, repealing section 343 of this title, and enacting provisions set out as notes under this section and section 301 of this title] shall become effective on May 1, 1974, except that title III [amending sections 1701 and 3202 of this title] shall become effective on the first day of the second calendar month following enactment [May 31, 1974]."

Effective Date of 1972 Amendment

Section 301(a) of Pub. L. 92-328 provided that: "Sections 101 through 107 of this Act [which enacted section 362 of this title, amended sections 314, 315, 536, 3021, 3202, and 3203 of this title, and enacted provisions set out as notes under this section and section 3203 of this title] shall take effect on the first day of the second calendar month which begins after the date of enactment [June 30, 1972]."

Effective Date of 1970 Amendment

Section 9 of Pub. L. 91-376 provided that: "The first two sections of this Act [amending this section and section 315 of this title, and enacting provision set out as a note under this section] take effect July 1, 1970. Sections 4, 5, 6, and 7 [amending sections 103, 3010, and 3104 of this title, and enacting provision set out as a note under section 103 of this title] take effect January 1, 1971."

Effective Date of 1968 Amendment

Section 2 of Pub. L. 90-493 provided that: "The compensation payable pursuant to the amendments made

by this Act [increasing rates of wartime disability compensation of this section] shall be payable beginning with the first day of January 1969."

Deletion of subsec. (q) not to apply in the case of any veteran who, on Aug. 19, 1968, was receiving or entitled to receive compensation for tuberculosis which in the judgment of the Administrator had reached a condition of complete arrest, see section 4(b) of Pub. L. 90-493, set out as a note under former section 356 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 9 of Pub. L. 89-311 provided that: "The amendments made by the first section and sections 2, 3, and 4 of this Act [amending sections 101, 314, 315, 360, 414 and 560 of this title and enacting provisions set out as a note under this section] shall take effect on the first day of the second calendar month following the date of enactment of this Act [Oct. 31, 1965]."

EFFECTIVE DATE OF 1963 AMENDMENTS

Section 2 of Pub. L. 88-22 provided that: "The amendments made by this Act [providing increased compensation for aphonia] shall take effect on the first day of the second calendar month which begins after the date of enactment of this Act [May 15, 1963]."

Section 2 of Pub. L. 88-20 provided that: "The amendments made by this Act [providing increased compensation for deafness of both ears] shall take effect on the first day of the second month which begins after the date of its enactment [May 15, 1963]."

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-645 effective on the first day of the first calendar month which begins after Sept. 7, 1962, see section 4 of Pub. L. 87-645, set out as an Effective Date of 1962 Amendment note under section 312 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 2 of Pub. L. 86-663 provided that: "This Act [adding subsec.(s)] shall be effective on and after the first day of the second calendar month following the date of its enactment. [July 14, 1960]."

EFFECTIVE DATE OF 1958 AMENDMENT

Section 2 of Pub. L. 85-782 provided in part that the amendment by Pub. L. 85-782 shall be effective Jan. 1, 1959.

ADMINISTRATIVE RATE ADJUSTMENTS FOR PERSONS RECEIVING BENEFITS ON DECEMBER 31, 1958

Section 101(b) of Pub. L. 94-433 provided that: "The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section [amending subsecs. (a) to (p), (r), and (s) of this section] the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 [set out as a note preceding section 101 of this title] who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code."

Similar provisions were contained in the following acts:

Pub. L. 94-71, title I, § 101(b), Aug. 5, 1975, 89 Stat. 395.

Pub. L. 93-295, title I, § 101(b), May 31, 1974, 88 Stat. 181.

Pub. L. 92-328, title I, § 101(b), June 30, 1972, 86 Stat. 393.

Pub. L. 91-376, § 1(b), Aug. 12, 1970, 84 Stat. 788.

Pub. L. 90-493, § 1(b), Aug. 19, 1968, 82 Stat. 809.

Pub. L. 89-311, § 1(b), Oct. 31, 1965, 79 Stat. 1154.

Pub. L. 87-645, § 1(b), Sept. 7, 1962, 76 Stat. 441.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 315, 334, 617, 3203 of this title.

§ 315. Additional compensation for dependents

Any veteran entitled to compensation at the rate provided in section 314 of this title, and whose disability is rated not less than 50 per centum, shall be entitled to additional compensation for dependents in the following monthly amounts:

(1) If and while rated totally disabled and—

(A) has a spouse and no child living, $43;

(B) has a spouse and one child living, $72;

(C) has a spouse and two children living, $92;

(D) has a spouse and three or more children living, $113 (plus $21 for each living child in excess of three);

(E) has no spouse but one child living, $28;

(F) has no spouse but two children living, $49;

(G) has no spouse but three or more children living, $72 (plus $21 for each living child in excess of three);

(H) has a parent dependent upon such veteran for support, then, in addition to the above amounts, $35 for each parent so dependent;

(I) notwithstanding the other provisions of this subsection, the monthly payable amount on account of a spouse who is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person, shall be $78 for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this subsection; and

(J) notwithstanding the other provisions of this subsection, the monthly amount payable on account of each child who has attained the age of eighteen years and who is pursuing a course of instruction at an approved educational institution shall be $66 for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this subsection.

(2) If and while rated partially disabled, but not less than 50 per centum, in an amount having the same ratio to the amount specified in paragraph (1) as the degree of disability bears to total disability. The amounts payable under this paragraph shall be adjusted upward or downward to the nearest dollar, counting fifty cents and over as a whole dollar.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1121; Pub. L. 86-499, § 1, June 8, 1960, 74 Stat. 165; Pub. L. 89-137, § 1(b), Aug. 26, 1965, 79 Stat. 576; Pub. L. 89-311, § 2(a), (b), Oct. 31, 1965, 79 Stat. 1154, 1155; Pub. L. 91-376, § 2, Aug. 12, 1970, 84 Stat. 788; Pub. L. 92-328, title I, § 102, June 30, 1972, 86 Stat. 394; Pub. L. 93-295, title I, § 102, May 31, 1974, 88 Stat. 181; Pub. L. 94-71, title I, § 102, Aug. 5, 1975, 89 Stat. 396; Pub.

L. 94-433, title I, § 102, title IV, § 404(9)-(11), Sept. 30, 1976, 90 Stat. 1375, 1378.)

AMENDMENTS

1976—Par. (1). Pub. L. 94-433, § 102, substituted $43 for $40 in subpar. (A), $72 for $67 in subpar. (B), $92 for $85 in subpar. (C), $113 and $21 for $105 and $19, respectively, in subpar. (D), $28 for $26 in subpar. (E), $49 for $45 in subpar. (F), $72 and $21 for $67 and $19, respectively, in subpar. (G), $35 for $32 in subpar. (H), added subpar. (I), and substituted $66 for $61 in subpar. (J), formerly (I), but redesignated (J).

Pub. L. 94-433, §§ 404(9), (10), substituted "spouse" for "wife" in subpars. (A) through (G) and "parent dependent upon such veteran" for "mother or father, either or both dependent upon him" in subpar. (H).

Par. (2). Pub. L. 94-433, § 404(11), deleted "his" preceding "disability bears".

1975—Par. (1). Pub. L. 94-71 substituted $40 for $36 in subpar. (A), $67 for $61 in subpar. (B), $85 for $77 in subpar. (C), $105 and $19 for $95 and $17, respectively, in subpar. (D), $26 for $24 in subpar. (E), $45 for $41 in subpar. (F), $67 and $19 for $61 and $17, respectively, in subpar. (G), $32 for $29 in subpar. (H) and $61 for $55 in subpar. (I).

1974—Par. (1). Pub. L. 93-295 substituted $36 for $31 in subpar. (A), $61 for $53 in subpar. (B), $77 for $67 in subpar. (C), $95 and $17 for $83 and $15, respectively, in subpar. (D), $24 for $21 in subpar. (E), $41 for $36 in subpar. (F), $61 and $17 for $53 and $15, respectively, in subpar. (G), $29 for $25 in subpar. (H), and $55 for $48 in subpar. (I).

1972—Par. (1). Pub. L. 92-328 substituted $31 for $28 in subpar. (A), $53 for $48 in subpar. (B), $67 for $61 in subpar. (C), $83 and $15 for $75 and $14, respectively, in subpar. (D), $21 for $19 in subpar. (E), $36 for $33 in subpar. (F), $53 and $15 for $48 and $14, respectively, in subpar. (G), $25 for $23 in subpar. (H), and $48 for $44 in subpar. (I).

1970—Par. (1). Pub. L. 91-376 substituted $28 for $25 in subpar. (A), $48 for $43 in subpar. (B), $61 for $55 in subpar. (C), $75 and $14 for $68 and $13, respectively, in subpar. (D), $19 for $17 in subpar. (E), $33 for $30 in subpar. (F), $48 and $14 for $43 and $13, respectively, in subpar. (G), $23 for $21 in subpar. (H), and $44 for $40 in subpar. (I).

1965—Par. (1). Pub. L. 89-311 substituted $25 for $23 in subpar. (A), $43 for $39 in subpar. (B), $55 for $50 in subpar. (C), $68 and $13 for $62 and $12 respectively in subpar. (D), $17 for $15 in subpar. (E), $30 for $27 in subpar. (F), $43 and $13 for $39 and $12 respectively in subpar. (G), and $21 for $19 in subpar. (H), and added subpar. (I).

Pub. L. 89-137 eliminated subsec. (b) which prohibited payment of the additional compensation to any veteran during any period he is in receipt of an increased rate of subsistence allowance or education and training allowance on account of a dependent or dependents, and redesignated former subsec. (a) as the entire section.

1960—Subsec. (a). Pub. L. 86-499 authorized payment of $12 for each living child in excess of three.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-71 effective Aug. 1, 1975, see section 301 of Pub. L. 94-71, set out as an Effective Date of 1975 Amendment note under section 314 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-295 effective May 1, 1974, see section 401 of Pub. L. 93-295, set out as an Effective Date of 1974 Amendment note under section 314 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-328 effective on the first day of the second calendar month which begins after June 30, 1972, see section 301(a) of Pub. L. 92-328, set out as an Effective Date of 1972 Amendment note under section 314 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-376 effective July 1, 1970, see section 9 of Pub. L. 91-376, set out as an Effective Date of 1970 Amendment note under section 314 of this title.

EFFECTIVE DATE OF 1965 AMENDMENTS

Amendment by Pub. L. 89-311 to take effect on the first day of the second calendar month following the date of enactment of Pub. L. 89-311, which was approved on Oct. 31, 1965, see section 9 of Pub. L. 89-311, set out as an Effective Date of 1965 Amendment note under section 314 of this title.

Amendment by Pub. L. 89-137 effective Oct. 1, 1965, see section 2 of Pub. L. 89-137, set out as an Effective Date of 1965 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 2 of Pub. L. 86-499 provided that: "The amendments made by this Act [to subsec. (a)(1)(d), (g)] shall take effect on the first day of the second calendar month which begins after the date of enactment of this Act [June 8, 1960]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 335, 1504 of this title.

SUBCHAPTER III—WARTIME DEATH COMPENSATION

§ 321. Basic entitlement

The surviving spouse, child, or children, and dependent parent or parents of any veteran who died before January 1, 1957 as the result of injury or disease incurred in or aggravated by active military, naval, or air service, in line of duty, during a period of war, shall be entitled to receive compensation at the monthly rates specified in section 322 of this title.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1122; Pub. L. 92-197, § 6, Dec. 15, 1971, 85 Stat. 662; Pub. L. 94-433, title IV, § 404(12), Sept. 30, 1976, 90 Stat. 1378.)

AMENDMENTS

1976—Pub. L. 94-433 substituted "spouse" for "widow".

1971—Pub. L. 92-197 struck out eligibility clause when the veteran died after April 30, 1957, under circumstances described in section 417(a) of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as Effective Date of 1976 Amendment note under section 301 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-197 effective Jan. 1, 1972, see section 10 of Pub. L. 92-197, set out as an Effective Date of 1971 Amendment note under section 411 of this title.

§ 322. Rates of wartime death compensation

(a) The monthly rates of death compensation shall be as follows:

(1) Surviving spouse but no child, $87;

(2) Surviving spouse with one child, $121 (with $29 for each additional child);

(3) No surviving spouse but one child, $67;

(4) No surviving spouse but two children, $94 (equally divided);

(5) No surviving spouse but three children, $122 (equally divided) (with $23 for each additional child, total amount to be equally divided);

(6) Dependent parent, $75;

(7) Both dependent parents, $40 each.

(b) The monthly rate of death compensation payable to a surviving spouse or dependent parent under subsection (a) of this section shall be increased by $74 if the payee is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1122; Pub. L. 91-96, § 7, Oct. 27, 1969, 83 Stat. 146; Pub. L. 91-588, § 3(a), Dec. 24, 1970, 84 Stat. 1583; Pub. L. 92-197, § 9, Dec. 15, 1971, 85 Stat. 662; Pub. L. 93-295, title II, § 204, May 31, 1974, 88 Stat. 183; Pub. L. 94-169, title II, § 202, Dec. 23, 1975, 89 Stat. 1021; Pub. L. 94-432, title IV, § 401, Sept. 30, 1976, 90 Stat. 1372; Pub. L. 94-433, title IV, § 404(13)-(17), Sept. 30, 1976, 90 Stat. 1378, 1379.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-433, § 404(13) to (16), substituted "Surviving spouse" for "Widow" in pars. (1) and (2); "surviving spouse" for "widow" in pars. (3), (4), and (5); "parent" for "mother or father" in par. (6); and "Both dependent parents" for "Dependent mother and father" in par. (7).

Subsec. (b). Pub. L. 94-433, § 404(17), substituted "surviving spouse" for "widow".

Pub. L. 94-432 substituted "$74" for "$69".

1975—Subsec. (b). Pub. L. 94-169 substituted, effective for the period beginning Jan. 1, 1976, and ending Sept. 30, 1976, "$69" for "$64".

1974—Subsec. (b). Pub. L. 93-295 substituted "$64" for "$55."

1971—Subsec. (b). Pub. L. 92-197 extended the benefits to dependent parents under subsec. (a) of this section and increased the increase in benefits from $50 to $55.

1970—Subsec. (b). Pub. L. 91-588 substituted "$55" for "$50".

1969—Pub. L. 91-96 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1976 AMENDMENTS

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

Amendment by Pub. L. 94-432 effective Jan. 1, 1977, see section 405(b) of Pub. L. 94-432, set out as an Effective Date of 1976 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 202 of Pub. L. 94-169, as amended by section 101 of Pub. L. 94-432 eff. Sept. 30, 1976, provided in part that the amendment of this section by Pub. L. 94-169 is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-295 effective May 1, 1974, see section 401 of Pub. L. 93-295, set out as an Effective Date of 1974 Amendment note under section 314 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-197 effective Jan. 1, 1972, see section 10 of Pub. L. 92-197, set out as an Effective Date of 1971 Amendment note under section 411 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-588 effective Jan. 1, 1971, see section 10(a) of Pub. L. 91-588, set out as an Effective Date of 1970 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-96 effective on the first day of the second calendar month which begins after Oct. 27, 1969, see section 8 of Pub. L. 91-96, set out as an Effective Date of 1969 Amendment note under section 402 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 321, 342 of this title.

SUBCHAPTER IV—PEACETIME DISABILITY COMPENSATION

§ 331. Basic entitlement

For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during other than a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting innjury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is the result of the veteran's own willful misconduct.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1122.)

CROSS REFERENCES

Naval Reserves and Marine Corps Reserve, disability and death benefits, see section 6148 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 332, 333, 334 of this title; title 10 section 6148.

§ 332. Presumption of sound condition

For the purposes of section 331 of this title, every person employed in the active military, naval, or air service for six months or more shall be taken to have been in sound condition when examined, accepted and enrolled for service, except as to defects, infirmities, or disorders noted at the time of the examination, acceptance and enrollment, or where evidence or medical judgment is such as to warrant a finding that the disease or injury existed before acceptance and enrollment.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1122.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 337 of this title.

§ 333. Presumptions relating to certain diseases

(a) For the purposes of section 331 of this title, and subject to the provisions of subsec-

tions (b) and (c) of this section, any veteran who served for six months or more and contracts a tropical disease or a resultant disorder or disease originating because of therapy administered in connection with a tropical disease, or as a preventative thereof, shall be deemed to have incurred such disability in the active military, naval, or air service when it is shown to exist within one year after separation from active service, or at a time when standard and accepted treatises indicate that the incubation period thereof commenced during active service.

(b) Service-connection shall not be granted pursuant to subsection (a), in any case where the disease or disorder is shown by clear and unmistakable evidence to have had its inception before or after active military, naval, or air service.

(c) Nothing in this section shall be construed to prevent the granting of service-connection for any disease or disorder otherwise shown by sound judgment to have been incurred in or aggravated by active military, naval, or air service.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1123.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 337 of this title.

§ 334. Rates of peacetime disability compensation

For the purposes of section 331 of this title, the compensation payable for the disability shall be that specified in section 314 of this title.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1123; Pub. L. 92–328, title I, § 108(a), June 30, 1972, 86 Stat. 396.)

AMENDMENTS

1972—Pub. L. 92–328 substituted provisions that the compensation payable for the disability be that specified in section 314 of this title, for provisions that the compensation payable for the disability be equal to 80% of the compensation payable for such disability under section 314 of this title, adjusted upward or downward to the nearest dollar.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 301(b) of Pub. L. 92–328 provided that: "Section 108 [which repealed section 336 of this title and amended this section and section 335 of this title] shall take effect on July 1, 1973."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 314, 335, 617 of this title.

§ 335. Additional compensation for dependents

Any veteran entitled to compensation at the rates provided in section 334 of this title, and whose disability is rated not less than 50 per centum, shall be entitled to additional monthly compensation for dependents as provided in section 315 of this title.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1123; Pub. L. 92–328, title I, § 108(b), June 30, 1972, 86 Stat. 396.)

AMENDMENTS

1972—Pub. L. 92–328 substituted provisions that the veteran be entitled to additional monthly compensation for dependents as provided in section 315 of this title, for provisions that the veteran be entitled to additional monthly compensation for dependents equal to 80% of the additional compensation for dependents provided in section 315 of this title, and subject to the limitations thereof, and adjusted upward or downward to the nearest dollar.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–328 effective on July 1, 1973, see section 301(b) of Pub. L. 92–328, set out as Effective Date of 1972 Amendment note under section 334 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1504 of this title.

[§ 336. Repealed. Pub. L. 92–328, title I, § 108(c), June 30, 1972, 86 Stat. 396]

Section, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1123, set forth the conditions under which wartime rates were payable to any veteran otherwise entitled to compensation under the provisions of this subchapter.

EFFECTIVE DATE OF REPEAL

Repeal of section effective July 1, 1973, see section 301(b) of Pub. L. 92–328, set out as an Effective Date of 1972 Amendment note under section 334 of this title.

§ 337. Wartime presumptions for certain veterans

For the purposes of this subchapter and subchapter V of this chapter and notwithstanding the provisions of sections 332 and 333 of this subchapter, the provisions of sections 311, 312, and 313 of this chapter shall be applicable in the case of any veteran who served in the active military, naval, or air service after December 31, 1946.

(Added Pub. L. 89–358, § 7(a), Mar. 3, 1966, 80 Stat. 27, and amended Pub. L. 93–295, title II, § 205, May 31, 1974, 88 Stat. 183.)

AMENDMENTS

1974—Pub. L. 93–295 substituted "December 31, 1946" for "January 31, 1955".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–295 effective May 1, 1974, see section 401 of Pub. L. 93–295, set out as an Effective Date of 1974 Amendment note under section 314 of this title.

SUBCHAPTER V—PEACETIME DEATH COMPENSATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 337 of this title.

§ 341. Basic entitlement

The surviving spouse, child or children, and dependent parent or parents of any veteran who died before January 1, 1957 as the result of injury or disease incurred in or aggravated by active military, naval, or air service, in line of duty, during other than a period of war, shall be entitled to receive compensation as hereinafter provided in this subchapter.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1123; Pub. L. 92–197, § 6, Dec. 15, 1971, 85 Stat. 662; Pub. L. 94–433, title IV, § 404(18), Sept. 30, 1976, 90 Stat. 1379.)

AMENDMENTS

1976—Pub. L. 94-433 substituted "spouse" for "widow".

1971—Pub. L. 92-197 struck out eligibility clause when the veteran died after April 30, 1957, under circumstances described in section 417(a) of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-197 effective Jan. 1, 1972, see section 10 of Pub. L. 92-197, set out as an Effective Date of 1971 Amendment note under section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 342 of this title.

§ 342. Rates of peacetime death compensation

For the purposes of section 341 of this title, the monthly rates of death compensation payable shall be those specified in section 322 of this title.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1124; Pub. L. 93-295, title II, § 206(a), May 31, 1974, 88 Stat. 183.)

AMENDMENTS

1974—Pub. L. 93-295 substituted "those specified in section 322 of this title" for "equal to 80 per centum of the rates prescribed by section 322 of this title, adjusted upward or downward to the nearest dollar, counting fifty cents and over as a whole dollar".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-295 effective May 1, 1974, see section 401 of Pub. L. 93-295, set out as an Effective Date of 1974 Amendment note under section 314 of this title.

[§ 343. Repealed. Pub. L. 93-295, title II, § 206(b), May 31, 1974, 88 Stat. 183]

Section, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1124, prescribed conditions under which wartime rates of compensation were payable.

EFFECTIVE DATE OF REPEAL

Repeal of section effective May 1, 1974, see section 401 of Pub. L. 93-295, set out as an Effective Date of 1974 Amendment note under section 314 of this title.

SUBCHAPTER VI—GENERAL COMPENSATION PROVISIONS

§ 351. Benefits for persons disabled by treatment or vocational rehabilitation

Where any veteran shall have suffered an injury, or an aggravation of an injury, as the result of hospitalization, medical or surgical treatment, or the pursuit of a course of vocational rehabilitation under chapter 31 of this title, awarded under any of the laws administered by the Veterans' Administration, or as a result of having submitted to an examination under any such law, and not the result of such veteran's own willful misconduct, and such injury or aggravation results in additional disability to or the death of such veteran, disability or death compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded in the same manner as if such disability, aggravation, or death were service-connected. Where an individual is, on or after December 1, 1962, awarded a judgment against the United States in a civil action brought pursuant to section 1346(b) of title 28, United States Code, or, on or after December 1, 1962, enters into a settlement or compromise under section 2672 or 2677 of title 28, United States Code, by reason of a disability, aggravation, or death treated pursuant to this section as if it were service-connected, then no benefits shall be paid to such individual for any month beginning after the date such judgment, settlement, or compromise on account of such disability, aggravation, or death becomes final until the aggregate amount of benefits which would be paid but for this sentence equals the total amount included in such judgment, settlement, or compromise.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1124; Pub. L. 87-825, § 3, Oct. 15, 1962, 76 Stat. 950; Pub. L. 91-24, § 3, June 11, 1969, 83 Stat. 33; Pub. L. 94-433, title IV, § 404(19), Sept. 30, 1976, 90 Stat. 1379.)

AMENDMENTS

1976—Pub. L. 94-433 deleted "him" preceding "under any of the laws" and substituted "such veteran's" for "his" in the first sentence.

1969—Pub. L. 91-24 substituted ", on or after December 1, 1962," for "hereafter" wherever appearing therein.

1962—Pub. L. 87-825 provided that where an individual is awarded a judgment under section 1346(b) of Title 28, enters a settlement or compromise under section 2672 or 2677 of such title by reason of a disability, aggravation, or death treated pursuant to this section as if service-connected, then no benefits shall be paid such individual for any month beginning after such judgment, settlement or compromise becomes final until the aggregate amount of benefits equals the total amount included in such judgment, settlement, or compromise, and eliminated provisions which required that no benefits were to be awarded unless application was made therefor within two years after an injury or aggravation was suffered, or a death occurred.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-825 effective on the first day of the second calendar month which begins after Oct. 15, 1962, see section 7 of Pub. L. 87-825, set out as an Effective Date of 1962 Amendment note under section 110 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3010 of this title.

§ 352. Persons heretofore having a compensable status

The death and disability benefits of this chapter shall, notwithstanding the service requirements thereof, be granted to persons heretofore recognized by law as having a compensable status, including persons whose claims are based on war or peacetime service rendered before April 21, 1898.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1124.)

§ 353. Aggravation

A preexisting injury or disease will be considered to have been aggravated by active military, naval, or air service, where there is an increase in disability during such service, unless there is a specific finding that the increase in disability is due to the natural progress of the disease.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1124.)

§ 354. Consideration to be accorded time, place and circumstances of service

(a) The Administrator shall include in the regulations pertaining to service-connection of disabilities, additional provisions in effect requiring that in each case where a veteran is seeking service-connection for any disability due consideration shall be given to the places, types, and circumstances of such veteran's service as shown by such veteran's service record, the official history of each organization in which such veteran served, his medical records, and all pertinent medical and lay evidence.

(b) In the case of any veteran who engaged in combat with the enemy in active service with a military, naval, or air organization of the United States during a period of war, campaign, or expedition, the Administrator shall accept as sufficient proof of service-connection of any disease or injury alleged to have been incurred in or aggravated by such service satisfactory lay or other evidence of service incurrence or aggravation of such injury or disease, if consistent with the circumstances, conditions, or hardships of such service, notwithstanding the fact that there is no official record of such incurrence or aggravation in such service, and, to that end, shall resolve every reasonable doubt in favor of the veteran. Service-connection of such injury or disease may be rebutted by clear and convincing evidence to the contrary. The reasons for granting or denying service-connection in each case shall be recorded in full.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1124; Pub. L. 94-433, title IV, § 404(20), Sept. 30, 1976, 90 Stat. 1379.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-433 substituted "such veteran's" for "his" in two instances and "such veteran" for "he".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

§ 355. Authority for schedule for rating disabilities

The Administrator shall adopt and apply a schedule of ratings of reductions in earning capacity from specific injuries or combination of injuries. The ratings shall be based, as far as practicable, upon the average impairments of earning capacity resulting from such injuries in civil occupations. The schedule shall be constructed so as to provide ten grades of disability and no more, upon which payments of compensation shall be based, namely, 10 per centum, 20 per centum, 30 per centum, 40 per centum, 50 per centum, 60 per centum, 70 per centum, 80 per centum, 90 per centum, and total, 100 per centum. The Administrator shall from time to time readjust this schedule of ratings in accordance with experience.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1125.)

[§ 356. Repealed. Pub. L. 90-493, § 4(a), Aug. 19, 1968, 82 Stat. 809]

Section, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1125, provided for a minimum rating for veterans with arrested tuberculosis.

EFFECTIVE DATE OF REPEAL

Section 4(b) of Pub. L. 90-493 provided that: "The repeals made by subsection (a) of this section [repealing this section and subsec. (q) of section 314 of this title] shall not apply in the case of any veteran who, on the date of enactment of this Act [Aug. 19, 1968], was receiving or entitled to receive compensation for tuberculosis which in the judgment of the Administrator had reached a condition of complete arrest."

§ 357. Combination of certain ratings

The Administrator shall provide for the combination of ratings and pay compensation at the rates prescribed in subchapter II of this chapter to those veterans who served during a period of war and during any other time, who have suffered disability in line of duty in each period of service.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1125.)

§ 358. Disappearance

Where a veteran receiving compensation under this chapter disappears, the Administrator may pay the compensation otherwise payable to the veteran to such veteran's spouse, children, and parents. Payments made to such veteran's spouse, child, or parent under the preceding sentence shall not exceed the amounts payable to each if the veteran had died from service-connected disability.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1125; Pub. L. 86-212, Sept. 1, 1959, 73 Stat. 436; Pub. L. 94-433, title IV, § 404(21), Sept. 30, 1976, 90 Stat. 1379.)

AMENDMENTS

1976—Pub. L. 94-433 deleted ", in his discretion," following "Administrator" and substituted "such veteran's spouse" for "his wife" and "such spouse" for "a wife".

1959—Pub. L. 86-212 substituted "a veteran" for "an incompetent veteran".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

§ 359. Protection of service connection

Service connection for any disability or death granted under this title which has been in force for ten or more years shall not be severed on or after January 1, 1962, except upon a showing that the original grant of service connection was based on fraud or it is clearly shown from military records that the person concerned did not have the requisite service or character of discharge. The mentioned period shall be com-

puted from the date determined by the Administrator as the date on which the status commenced for rating purposes.

(Added Pub. L. 86-501, § 1, June 10, 1960, 74 Stat. 195, and amended Pub. L. 87-825, § 6, Oct. 15, 1962, 76 Stat. 950.)

AMENDMENTS

1962—Pub. L. 87-825 provided for computation of the period from the date the administrator determines as the date the status commenced for rating purposes.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-825 effective on the first day of the second calendar month which begins after Oct. 15, 1962, see section 7 of Pub. L. 87-825, set out as an Effective Date of 1962 Amendment note under section 110 of this title.

§ 360. Special consideration for certain cases of blindness or bilateral kidney involvement or bilateral deafness

Where any veteran has suffered (1) blindness in one eye as a result of service-connected disability and has suffered blindness in the other eye as a result of non-service-connected disability not the result of such veteran's own willful misconduct, or (2) has suffered the loss or loss of use of one kidney as a result of service-connected disability, and has suffered severe involvement of the other kidney such as to cause total disability, as a result of non-service-connected disability not the result of such veteran's own willful misconduct, or (3) has suffered total deafness in one ear as a result of service-connected disability and has suffered total deafness in the other ear as the result of non-service-connected disability not the result of such veteran's own willful misconduct, the Administrator shall assign and pay to the veteran concerned the applicable rate of compensation under this chapter as if such veteran's blindness in both eyes or such bilateral kidney involvement were the result of service-connected disability.

(Added Pub. L. 87-610, § 1, Aug. 28, 1962, 76 Stat. 406, and amended Pub. L. 89-311, § 3 (a), (b), Oct. 31, 1965, 79 Stat. 1155; Pub. L. 94-433, title IV, § 404(22), Sept. 30, 1976, 90 Stat. 1379.)

AMENDMENTS

1976—Pub. L. 94-433 substituted "such veteran's" for "his" wherever appearing.

1965—Pub. L. 89-311 added clause (3) referring to total deafness in one ear as a result of service-connected disability and total deafness in the other ear as the result of non-service-connected disability not the result of his own willful misconduct, inserted reference to total deafness in both ears and, in the section catchline, inserted reference to bilateral deafness.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-311 effective on the first day of the second calendar month following the date of enactment of Pub. L. 89-311, which was approved on Oct. 31, 1965, see section 9 of Pub. L. 89-311, set out as an Effective Date of 1965 Amendment note under section 314 of this title.

§ 361. Payment of disability compensation in disability severance cases

The deduction of disability severance pay from disability compensation, as required by section 1212(c) of title 10, United States Code, shall be made at a monthly rate not in excess of the rate of compensation to which the former member would be entitled based on the degree of such former member's disability as determined on the initial Veterans' Administration rating.

(Added Pub. L. 91-241, May 7, 1970, 84 Stat. 203, and amended Pub. L. 94-433, title IV, § 404(23), Sept. 30, 1976, 90 Stat. 1379.)

AMENDMENTS

1976—Pub. L. 94-433 substituted "such former member's" for "his".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

§ 362. Clothing allowance

The Administrator under regulations which the Administrator shall prescribe, shall pay a clothing allowance of $190 per year to each veteran who because of disability which is compensable under the provisions of this chapter, wears or uses prosthetic or orthopedic appliance or appliances (including a wheelchair) which the Administrator determines tends to wear out or tear the clothing of such a veteran.

(Added Pub. L. 92-328, title I, § 103(a), June 30, 1972, 86 Stat. 394, and amended Pub. L. 94-71, title I, § 103, Aug. 5, 1975, 89 Stat. 396; Pub. L. 94-433, title III, § 301, title IV, § 404(24), Sept. 30, 1976, 90 Stat. 1377, 1379.)

AMENDMENTS

1976—Pub. L. 94-433, §§ 301, 404(24), substituted $190 for $175 and "the Administrator shall prescribe" for "he shall prescribe".

1975—Pub. L. 94-71 substituted $175 for $150.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-71 effective Aug. 1, 1975, see section 301 of Pub. L. 94-71, set out as an Effective Date of 1975 Amendment note under section 314 of this title.

EFFECTIVE DATE

Section effective on the first day of the second calendar month which begins after June 30, 1972, see section 301(a) of Pub. L. 92-328, set out as an Effective Date of 1972 Amendment note under section 314 of this title.

CHAPTER 13—DEPENDENCY AND INDEMNITY COMPENSATION FOR SERVICE-CONNECTED DEATHS

SUBCHAPTER I—GENERAL

Sec.
401. Definitions.
402. Determination of pay grade.

Sec.
403. Coverage of members of Reserve Officers' Training Corps.
404. Special provisions relating to surviving spouses.

SUBCHAPTER II—DEPENDENCY AND INDEMNITY COMPENSATION

410. Deaths entitling survivors to dependency and indemnity compensation.
411. Dependency and indemnity compensation to a surviving spouse.
412. Benefits in certain cases of in-service or service-connected deaths.
413. Dependency and indemnity compensation to children.
414. Supplemental dependency and indemnity compensation to children.
415. Dependency and indemnity compensation to parents.
416. Dependency and indemnity compensation in cases of prior deaths.
417. Restriction on payments under this chapter.

SUBCHAPTER III—CERTIFICATIONS

421. Certifications with respect to pay grade.
422. Certifications with respect to social security entitlement.
423. Certifications by Administrator.

AMENDMENTS

1976—Pub. L. 94-433, § 405(6), (8), Sept. 30, 1976, 90 Stat. 1379 substituted in item 404 "surviving spouses" for "widows" and in item 411 "surviving spouse" for "widow".

1969—Pub. L. 91-96, § 6, Oct. 27, 1969, 83 Stat. 145, substituted "Determination of pay grade" for "Computation of basic pay" in item 402 and "Certifications with respect to pay grade" for "Certifications with respect to basic pay" in item 421.

UNIFORMED SERVICES, PROMOTION OF MEMBERS IN MISSING STATUS; EFFECTIVE DATE

Provisions of section 552(a) of Title 37, Pay and Allowances of the Uniformed Services, for full effectiveness for all purposes of promotion of a member while in a missing status notwithstanding a determination of death before the making of the promotion effective as of Nov. 24, 1971, for the purposes of this chapter, see section 2 of Pub. L. 93-26, Apr. 27, 1973, 87 Stat. 26, set out as an Effective Date of 1973 Amendment note under section 552 of Title 37.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 101, 106, 107, 351, 503, 2013, 3005, 3110 of this title; title 10 sections 1431, 1446.

SUBCHAPTER I—GENERAL

§ 401. Definitions

As used in this chapter—

The term "veteran" includes a person who died in the active military, naval, or air service.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1126; Pub. L. 91-24, § 4(a), June 11, 1969, 83 Stat. 33; Pub. L. 91-96, § 5, Oct. 27, 1969, 83 Stat. 145.)

AMENDMENTS

1969—Pub. L. 91-96 struck out par. (1) which defined the term "basic pay".

Par. (1). Pub. L. 91-24 substituted "sections 201, 202, 203, 204, 205, or 207 of title 37" for "sections 232(a), 232(e), or 308 of Title 37".

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-96 effective on the first day of the second calendar month which begins after Oct. 27, 1969, see section 8 of Pub. L. 91-96, set out as an Effective Date of 1969 Amendment note under section 402 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 409.

§ 402. Determination of pay grade

(a) With respect to a veteran who died in the active military, naval, or air service, such veteran's pay grade shall be determined as of the date of such veteran's death or as of the date of a promotion after death while in a missing status.

(b) With respect to a veteran who did not die in the active military, naval, or air service, such veteran's pay grade shall be determined as of—

(1) the time of such veteran's last discharge or release from active duty under conditions other than dishonorable; or

(2) the time of such veteran's discharge or release from any period of active duty for training or inactive duty training, if such veteran's death results from service-connected disability incurred during such period and if such veteran was not thereafter discharged or released under conditions other than dishonorable from active duty.

(c) The pay grade of a veteran described in section 106(b) of this title shall be that to which such veteran would have been assigned upon final acceptance or entry upon active duty.

(d) If a veteran has satisfactorily served on active duty for a period of six months or more in a pay grade higher that that specified in subsection (a) or (b) and any subsequent discharge or release from active duty was under conditions other than dishonorable, the higher pay grade shall be used if it will result in greater monthly payments to such veteran's surviving spouse under this chapter. The determination as to whether an individual has served satisfactorily for the required period in a higher pay grade shall be made by the Secretary of the Department in which such higher pay grade was held.

(e) The pay grade of any person not otherwise described in this section, but who had a compensable status on the date of such person's death under laws administered by the Veterans' Administration, shall be determined by the head of the department under which such person performed the services by which such person obtained such status (taking into consideration such person's duties and responsibilities) and certified to the Administrator. For the purposes of this chapter, such person shall be deemed to have been on active duty while performing such services.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1126; Pub. L. 86-492, June 8, 1960, 74 Stat. 161; Pub. L. 89-622, § 1, Oct. 4, 1966, 80 Stat. 873; Pub. L. 91-96, § 1, Oct. 27, 1969, 83 Stat. 144; Pub. L. 92-169, § 2, Nov. 24, 1971, 85 Stat. 489; Pub. L. 94-433, title IV, § 405(1)-(3), Sept. 30, 1976, 90 Stat. 1379.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-433, § 405(1), substituted "such veteran's" for "his" in two instances.

Subsec. (b). Pub. L. 94-433, § 405(1), substituted "such veteran's" for "his" in the introductory clause and items (1) and (2) and "such veteran" for "he" in item (2).

Subsec. (c). Pub. L. 94-433, § 405(2), substituted "such veteran" for "he".

Subsec. (d). Pub. L. 94-433, § 405(2), substituted "such veteran's surviving spouse" for "his widow".

Subsec. (e). Pub. L. 94-433, § 405(3), substituted "such person's" for "his" in two instances and "such person" for "he".

1971—Subsec. (a). Pub. L. 92-169 provided, with regard to determination of veteran's pay grade at date of his death, that in the case of a promotion after death while the veteran is in a missing status, the pay grade determination date is the date of such promotion.

1969—Pub. L. 91-96 substituted in the section catchline "Determination of pay grade" for "Computation of basic pay".

Subsec. (a). Pub. L. 91-96 substituted provisions determining the pay grade of a veteran who died in the active service for provisions determining the basic pay of a veteran who died in the active service as that prescribed on Jan. 1, 1957, or on the date of his death (whichever is the later date) for a member of a uniformed service on active duty of the same rank and years of service.

Subsec. (b). Pub. L. 91-96 substituted provisions determining the pay grade of a veteran who did not die in the active service for provisions determining the basic pay of a veteran who did not die in the active service as that prescribed on Jan. 1, 1957, or on the date of his death (whichever is the later date) for a member of a uniformed service on active duty of the same rank and years of service.

Subsec. (c). Pub. L. 91-96 redesignated former subsec. (c)(1) as (c), and, as so redesignated, substituted "pay grade" for "basic pay" and "assigned" for "entitled". Former subsec. (c)(2) was redesignated as (e).

Subsec. (d). Pub. L. 91-96 substituted provisions determining the applicability of a higher pay grade of a veteran who had served six months or more in a pay grade higher than that specified in subsec. (a) or (b) for provisions determining the basic pay of a veteran who had served six months or more in a rank higher than that specified in the former provisions of subsec. (a) or (b).

Subsec. (e). Pub. L. 91-96 redesignated former subsec. (c)(2) as (e), and, as so redesignated, substituted "pay grade" for "basic pay" and struck out "and years of service" following "responsibilities".

1966—Subsec. (d). Pub. L. 89-622 substituted "any subsequent discharge or release from active duty was under conditions other than dishonorable" for "was so serving in such rank within one hundred and twenty days before death in the active military, naval, or air service or before last discharge or release from active duty under conditions other than dishonorable".

1960—Subsec. (d). Pub. L. 86-492 added subsec. (d).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 3 of Pub. L. 92-169 provided that: "For the purposes of chapter 13 of title 38, United States Code this Act [amending this section and section 552 of this title] becomes effective upon the date of enactment [Nov. 24, 1971]. For all other purposes this Act becomes effective as of February 28, 1961."

EFFECTIVE DATE OF 1969 AMENDMENT

Section 8 of Pub. L. 91-96 provided that: "This Act [amending sections 322, 401, 402, 403, 411, and 421 of this title] shall take effect on the first day of the second calendar month which begins after the date of enactment [Oct. 27, 1969]."

EFFECTIVE DATE OF 1966 AMENDMENT

Section 2 of Pub. L. 89-622 provided that: "The amendment made by this Act [amending subsec. (d) of this section] shall take effect on the first day of the second calendar month after the date of enactment of this Act [Oct. 4, 1966]."

§ 403. Coverage of members of Reserve Officers' Training Corps

For the purposes of this chapter and section 722 of this title, annual training duty to which ordered for a period of fourteen days or more by a member of a Reserve Officers' Training Corps, and authorized travel to or from such duty, shall be deemed to be active military, naval, or air service.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1127; Pub. L. 91-96, § 2, Oct. 27, 1969, 83 Stat. 144.)

AMENDMENTS

1969—Pub. L. 91-96 struck out the provision setting forth the basic pay of any member as that of the monthly pay of a person having the rank and years of service of those members of a uniformed service to which the pay of such member was assimilated.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-96 effective on the first day of the second calendar month which begins after Oct. 27, 1969, see section 8 of Pub. L. 91-96, set out as an Effective Date of 1969 Amendment note under section 402 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 409.

§ 404. Special provisions relating to surviving spouses

No dependency and indemnity compensation shall be paid to the surviving spouse of a veteran dying after December 31, 1956, unless such surviving spouse was married to such veteran—

(1) before the expiration of fifteen years after the termination of the period of service in which the injury or disease causing the death of the veteran was incurred or aggravated; or

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1127; Pub. L. 90-77, title I, § 101(a), Aug. 31, 1967, 81 Stat. 178; Pub. L. 94-433, title IV, § 405(4), (5), Sept. 30, 1976, 90 Stat. 1379.)

AMENDMENTS

1976—Pub. L. 94-433, § 405(4), (5), substituted in introductory clause "surviving spouse", "such surviving spouse", and "such veteran" for "widow", "she", and "him" and in section catchline "surviving spouses" for "widows".

1967—Pub. L. 90-77 qualified widow of a veteran for receipt of compensation by reducing in par. (2) the requisite marriage period from five years to one year and by making her eligible for benefits in par. (3) in event of antenuptial birth.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of

Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

SUBCHAPTER II—DEPENDENCY AND INDEMNITY COMPENSATION

§ 410. Deaths entitling survivors to dependency and indemnity compensation

(a) When any veteran dies after December 31, 1956, from a service-connected or compensable disability, the Administrator shall pay dependency and indemnity compensation to such veteran's surviving spouse, children, and parents. The standards and criteria for determining whether or not a disability is service-connected shall be those applicable under chapter 11 of this title.

(b) Dependency and indemnity compensation shall not be paid to the surviving spouse, children, or parents of any veteran dying after December 31, 1956, unless such veteran (1) was discharged or released under conditions other than dishonorable from the period of active military, naval, or air service in which the disability causing such veteran's death was incurred or aggravated, or (2) died while in the active military, naval, or air service.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1127; Pub. L. 94-433, title IV, § 405(7), Sept. 30, 1976, 90 Stat. 1379.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-433 substituted "such veteran's surviving spouse" for "his widow".

Subsec. (b). Pub. L. 94-433 substituted "surviving spouse", "such veteran", and "such veteran's" for "widow", "he", and "his".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

DEPENDENCY AND INDEMNITY COMPENSATION PROGRAM

Section 204 of Pub. L. 94-433 authorized the Administrator of Veterans' Affairs to study the dependency and indemnity compensation program authorized by this chapter in order to evaluate the benefits provided by the program and to determine whether, or to what extent, benefits should be based on the military pay grade of the person upon whose death entitlement is predicated, and required the Administrator to submit to Congress and the President not later than Oct. 1, 1977, a report containing the results of the study together with the Administrator's recommendations for improvement of the program.

STUDY BY ADMINISTRATOR OF DEPENDENCY AND INDEMNITY COMPENSATION CLAIMS

Pub. L. 94-71, § 204, Aug. 5, 1975, 89 Stat. 397, authorized the Administrator of Veterans' Affairs to make a study of claims for dependency and indemnity compensation relating to veterans who at the time of death during the period Sept. 1, 1975 to Mar. 1, 1976 were receiving disability compensation based upon a total and permanent disability and required the report to be submitted to the Speaker of the House and the President of the Senate no later than Oct. 1, 1976.

Pub. L. 93-295, title II, § 207, May 31, 1974, 88 Stat. 183, required the Administrator to make a study of claims for dependency and indemnity compensation relating to veterans who, at time of death within six months of May 31, 1974, were receiving disability compensation, and to report to the Speaker and the President of the Senate no more than 30 days after the beginning of the 94th Congress.

§ 411. Dependency and indemnity compensation to a surviving spouse

(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

Pay grade	*Monthly rate*
E-1	$260
E-2	268
E-3	275
E-4	292
E-5	300
E-6	307
E-7	322
E-8	340
E-9	[1]355
W-1	328
W-2	341
W-3	352
W-4	372
O-1	328
O-2	340
O-3	364
O-4	384
O-5	423
O-6	476
O-7	516
O-8	565
O-9	607
O-10	[2]664

[1]If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by sec. 402 of this title, the surviving spouse's rate shall be $382.

[2]If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by sec. 402 of this title, the surviving spouse's rate shall be $712.

(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by $31 for each such child.

(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by $78 if the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1127; Pub. L. 87-268, § 1(b), Sept. 21, 1961, 75 Stat. 566; Pub. L. 88-21, § 1, May 15, 1963, 77 Stat. 17; Pub. L. 88-134, § 1, Oct. 5, 1963, 77 Stat. 223; Pub. L. 91-24, § 4(b), June 11, 1969, 83 Stat. 33; Pub. L. 91-96, § 3, Oct. 27, 1969, 83 Stat. 144; Pub. L. 91-588, § 3(a), Dec. 24, 1970, 84 Stat. 1583; Pub. L. 92-197, § 1, Dec. 15, 1971, 85 Stat. 660; Pub. L. 92-455, § 4, Oct. 2, 1972, 86 Stat. 761; Pub. L. 93-295, title II, § 201, May 31, 1974, 88 Stat. 182; Pub. L. 94-71, title II, § 201, Aug. 5, 1975, 89 Stat. 396; Pub. L. 94-433, title II, § 201, Sept. 30, 1976, 90 Stat. 1375.)

AMENDMENTS

1976—Pub. L. 94-433 substituted in section catchline "surviving spouse" for "widow".

Subsec. (a). Pub. L. 94-433 substituted "surviving spouse" for "widow" and "pay grade of the person upon whose death entitlement is predicated" for "pay grade of her deceased husband" in the text and "surviving spouse's rate" for "widow's rate" in footnotes 1 and 2 and generally upgraded the monthly rates for all pay grades.

Subsec. (b). Pub. L. 94-433 substituted "surviving spouse" for "widow" in two instances and increased from $29 to $31 the monthly dependency and indemnity compensation rate for each child.

Subsec. (c). Pub. L. 94-433 substituted "surviving spouse" and "spouse" for "widow" and "she" and increased the monthly rate of compensation payable from $72 to $78.

1975—Subsec. (a). Pub. L. 94-71 generally upgraded the monthly rates for all pay grades.

Subsec. (b). Pub. L. 94-71 increased from $26 to $29 the monthly dependency and indemnity compensation rate for each child.

Subsec. (c). Pub. L. 94-71 increased the monthly rate of compensation payable to a widow from $64 to $72.

1974—Subsec. (a). Pub. L. 93-295 generally upgraded the monthly rates for all pay grades.

Subsec. (b). Pub. L. 93-295 increased from $22 to $26 the monthly dependency and indemnity compensation rate for each child.

Subsec. (c). Pub. L. 93-295 increased the monthly rate of compensation payable to the widow from $55 to $64.

1972—Subsec. (a). Pub. L. 92-455 substituted in footnote 1 of the table "chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard," for "chief master sergeant of the Air Force, or sergeant major of the Marine Corps,".

1971—Subsec. (a). Pub. L. 92-197 generally upgraded the monthly rate for all pay grades.

Subsec. (b). Pub. L. 92-197 increased the dependency and indemnity compensation rate by $22 per month for each child from $20.

Subsec. (c). Pub. L. 92-197 reenacted subsec. (c) without change.

1970—Subsec. (c). Pub. L. 91-588 substituted "$55" for "$50".

1969—Subsec. (a). Pub. L. 91-96 substituted provisions setting forth the dependency and indemnity compensation table based on the pay grade of the deceased husband for provisions that the dependency and indemnity compensation was to be paid at a monthly rate equal to $120 plus 12 per centum of the basic pay of the deceased husband.

Subsec. (b). Pub. L. 91-96 substituted provisions which increased the dependency and indemnity compensation rate by $20 per month for each child below the age of eighteen of a deceased veteran for provisions which increased the dependency and indemnity compensation rate by $28 per month for each child of a deceased veteran in excess of one where there was a widow and two or more children below the age of eighteen and the total of monthly benefits they were receiving was less than a determined amount.

Subsec. (c). Pub. L. 91-96 substituted provisions increasing the dependency and indemnity compensation rate by $50 per month for widows that are patients in nursing homes, or are helpless or blind for provisions authorizing the Administrator to increase to the next highest dollar any fraction of a dollar payable under former subsecs. (a) and (b).

Subsecs. (d) to (f). Pub. L. 91-96 struck out subsecs. (d) to (f), which provided for the determination of the amount of additional compensation payable to a widow under former provisions of subsec. (b).

Subsec. (d)(3). Pub. L. 91-24 substituted "section 228c-1(h)" for "section 228c-1(l)".

1963—Subsec. (a). Pub. L. 88-134 increased from $112 to $120 the monthly rate of widow's dependency and indemnity compensation.

Subsec. (b). Pub. L. 88-21 substituted "$28" for "$25".

1961—Subsec. (d)(1). Pub. L. 87-268 substituted "section 412(a)" for "section 412"

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-71 effective Aug. 1, 1975, see section 301 of Pub. L. 94-71, set out as an Effective Date of 1975 Amendment note under section 314 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-295 effective May 1, 1974, see section 401 of Pub. L. 93-295, set out as an Effective Date of 1974 Amendment note under section 314 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 10 of Pub. L. 92-197 provided that: "This Act [amending sections 321, 322, 341, 411, 413 to 415, 417 and 724 of this title and enacting provisions set out as note under section 417 of this title] shall take effect on January 1, 1972."

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-588 effective Jan. 1, 1971, see section 10(a) of Pub. L. 91-588, set out as an Effective Date of 1970 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-96 effective on the first day of the second calendar month which begins after Oct. 27, 1969, see section 8 of Pub. L. 91-96, set out as an Effective Date of 1969 Amendment note under section 402 of this title.

EFFECTIVE DATE OF 1963 AMENDMENTS

Section 2 of Pub. L. 88-134 provided that: "The amendment made by this Act [to subsec. (a) of this section] shall take effect on the effective date of the Uniformed Services Pay Act of 1963 [effective Oct. 1, 1963; see Short Title note set out under section 201 of Title 37, Pay and Allowances of the Uniformed Services] or on January 1, 1964, whichever first occurs."

Section 5 of Pub. L. 88-21 provided that: "The amendments made by this Act [to sections 411 and 413 to 415 of this title] shall take effect on the first day of the second calendar month which begins after the date of enactment of this Act [May 15, 1963]."

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-268 effective on Oct. 1, 1961, see section 3 of Pub. L. 87-268, set out as an Effective Date of 1961 Amendment note under section 412 of this title.

SAVINGS PROVISIONS

Section 13(a) of Pub. L. 88-132, Oct. 2, 1963, 77 Stat. 218, provided that: "The enactment of this Act [see Short Title note under section 201 of Title 37, Pay and Allowances of the Uniformed Services], does not reduce the rate of dependency and indemnity compensation under section 411 of title 38, United States Code, that any person was receiving on the day before the effective date of this Act [Oct. 1, 1963] or which thereafter becomes payable for that day by reason of a subsequent determination."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 1448, 1450.

§ 412. Benefits in certain cases of in-service or service-connected deaths

(a) In the case of any veteran—

(1) who dies after December 31, 1956, and is not a fully and currently insured individual (as defined in section 414 of title 42) at the time of such veteran's death; and

(2) whose death occurs—

(A) while on active duty, active duty for training, or inactive duty training; or

(B) as the result of a service-connected disability incurred after September 15, 1940; and

(3) who leaves one or more survivors who are not entitled for any month to monthly benefits under section 402 of title 42 on the basis of such veteran's wages and self-employment income but who would, upon application therefor, be entitled to such benefits if such veteran had been fully and currently insured at the time of such veteran's death;

the Administrator shall pay for such month benefits under this section to each such survivor in an amount equal to the amount of the benefits which would have been paid for such month to such survivor under subchapter II of chapter 7 of title 42, if such veteran had been both fully and currently insured at the time of such veteran's death and if such survivor had filed application therefor on the same date on which application for benefits under this section is filed with the Administrator.

(b) In any case where the amount of dependency and indemnity compensation payable under this chapter to a surviving spouse who has children is less than the amount of pension which would be payable to (1) such surviving spouse, or (2) such children if the surviving spouse were not entitled, under chapter 15 of this title had the death occurred under circumstances authorizing payment of death pension, the Administrator shall pay dependency and indemnity compensation to such surviving spouse in an amount equal to such amount of pension.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1128; Pub. L. 87-268, § 1(a), Sept. 21, 1961, 75 Stat. 566; Pub. L. 89-466, June 22, 1966, 80 Stat. 217; Pub. L. 94-433, title IV, § 405(9), Sept. 30, 1976, 90 Stat. 1379.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-433 substituted "such veteran's" for "his" in cls. (1) and (3) and in the text following cl. (3) and "such veteran" for "he" in cl. (3).

Subsec. (b). Pub. L. 94-433 substituted "surviving spouse" for "widow" wherever appearing.

1966—Pub. L. 89-466 inserted "to a widow who has children", "to (1) such widow, or (2) such children if the widow were not entitled", and "such widow".

1961—Pub. L. 87-268 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 3 of Pub. L. 87-268 provided that: "The amendments made by this Act [amending sections 107, 411, 412, 415, 422 and 503 of this title, and enacting provisions set out as notes under this section] shall take effect as of the first day of the first calendar month which begins after the date of its enactment [Sept. 21, 1961]."

FILING OF APPLICATION FOR BENEFITS

Section 2 of Pub. L. 87-268 provided that the increased pension benefits authorized by Pub. L. 87-268 were to be payable from the effective date of Pub. L. 87-268 to anyone receiving dependency and indemnity compensation on such date only if the application for such increased benefits were filed with the Veterans' Administration within one year from such date and evidence of entitlement were of record or received within one year from the date of request therefor.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 107, 415, 422, 503 of this title.

§ 413. Dependency and indemnity compensation to children

Whenever there is no surviving spouse of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

(1) one child, $131;

(2) two children, $189;

(3) three children, $243; and

(4) more than three children, $243, plus $49 for each child in excess of three.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1128; Pub. L. 88-21, § 2, May 15, 1963, 77 Stat. 17; Pub. L. 89-730, § 4, Nov. 2, 1966, 80 Stat. 1159; Pub. L. 91-262, § 2, May 21, 1970, 84 Stat. 256; Pub. L. 92-197, § 2, Dec. 15, 1971, 85 Stat. 660; Pub. L. 93-295, title II, § 202, May 31, 1974, 88 Stat. 182; Pub. L. 94-71, title II, § 202, Aug. 5, 1975, 89 Stat. 397; Pub. L. 94-433, title II, § 202, Sept. 30, 1976, 90 Stat. 1376.)

AMENDMENTS

1976—Pub. L. 94-433 substituted "surviving spouse" for "widow" in introductory text and $131, $189, $243, $243, and $49 for $121, $175, $225, $225, and $45 in pars. (1), (2), (3), and (4), respectively.

1975—Pub. L. 94-71 substituted $121, $175, $225, $225 and $45 for $108, $156, $201, $201 and $40 in pars. (1), (2), (3) and (4), respectively.

1974—Pub. L. 93-295 substituted "$108", "$156", "$201", "$201", and "$40" for "$92", "$133", "$172", "$172", and "$34", in pars. (1), (2), (3), and (4), respectively.

1971—Pub. L. 92-197 substituted "$92", "$133", "$172", and "$172" and "$34" for "$88", "$127", "$164" and "164" and "$32", in pars. (1), (2), (3), and (4). respectively.

1970—Pub. L. 91-262 substituted "$88", "$127", "$164", and "$164" and "$32", for "$80", "$115", "$149", and "$149" and "$29", in pars. (1), (2), (3), and (4), respectively.

1966—Pub. L. 89-730 substituted "$80", "$115", "$149", and "$29", for "$77", "$110", "$143", and "$143" and "$28", in pars. (1), (2), (3), and (4), respectively.

1963—Pub. L. 88-21 substituted "$77", "$110", "$143" and "28" for "$70", "$100", "$130" and "$25", in pars. (1), (2), (3), and (4), respectively.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-71 effective Aug. 1, 1975, see section 301 of Pub. L. 94-71, set out as an Effective Date of 1975 Amendment note under section 314 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-295 effective May 1, 1974, see section 401 of Pub. L. 93-295, set out as an Effective Date of 1974 Amendment note under section 314 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-197 effective Jan. 1, 1972, see section 10 of Pub. L. 92-197, set out as an Effective Date of 1971 Amendment note under section 411 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 4 of Pub. L. 91-262 provided that: "The amendments made by sections 2 and 3 of this Act [amending this section and section 414 of this title] shall become effective on the first day of the second calendar month following the month in which this Act is enacted [May, 1970]."

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-730 effective on the first day of the second calendar month following the date of enactment of Pub. L. 89-730, which was approved Nov. 2, 1966, see section 7(a) of Pub. L. 89-730, set out as an Effective Date of 1966 Amendment note under section 415 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88-21 effective on first day of second calendar month beginning after May 15, 1963, see section 5 of Pub. L. 88-21, set out as an Effective Date of 1963 Amendment note under section 411 of this title.

§ 414. Supplemental dependency and indemnity compensation to children

(a) In the case of a child entitled to dependency and indemnity compensation who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, the dependency and indemnity compensation paid monthly to such child shall be increased by $78.

(b) If dependency and indemnity compensation is payable monthly to a person as a surviving spouse and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the widow, in the amount of $131.

(c) If dependency and indemnity compensation is payable monthly to a person as a surviving spouse and there is a child (of such person's deceased spouse), who has attained the age of eighteen and who, while under the age of twenty-three, is pursuing a course of instruction at an educational institution approved under section 104 of this title, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of $67.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1128; Pub. L. 88-21, § 3, May 15, 1963, 77 Stat. 17; Pub. L. 89-311, § 2(c)(2), Oct. 31, 1965, 79 Stat. 1155; Pub. L. 89-730, § 5, Nov. 2, 1966, 80 Stat. 1159; Pub. L. 91-262, § 3, May 21, 1970, 84 Stat. 256; Pub. L. 92-197, § 3, Dec. 15, 1971, 85 Stat. 661; Pub. L. 93-295, title II, § 203, May 31, 1974, 88 Stat. 183; Pub. L. 94-71, title II, § 203, Aug. 5, 1975, 89 Stat. 397; Pub. L. 94-433, title II, § 203, title IV, § 405(10), Sept. 30, 1976, 90 Stat. 1376, 1380.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-433, §§ 203(1), 405(10), substituted $78 for $72 and "such child" for "him".

Subsec. (b). Pub. L. 94-433, §§ 203(2), 405(10), substituted $131 for $121 and "person" for "woman", "surviving spouse" for "widow" and "such person's deceased spouse" for "her deceased husband" wherever appearing.

Subsec. (c). Pub. L. 94-433, §§ 203(3), 405(10), substituted $67 for $62 and "person" for "woman", "surviving spouse" for "widow" and "such person's deceased spouse" for "her deceased husband" wherever appearing.

1975—Subsec. (a). Pub. L. 94-71, § 203(a), substituted $72 for $64.

Subsec. (b). Pub. L. 94-71, § 203(b), substituted $121 for $108.

Subsec. (c). Pub. L. 94-71, § 203(c), substituted $62 for $55.

1974—Subsec. (a). Pub. L. 93-295, § 203(a), substituted "$64" for "55".

Subsec. (b). Pub. L. 93-295, § 203(b), substituted "$108" for "$92".

Subsec. (c). Pub. L. 93-295, 203(c), substituted "$55" for "$47".

1971—Subsec. (a). Pub. L. 92-197, § 3(a), substituted "$55" for "$32".

Subsec. (b). Pub. L. 92-197, § 3(b), substituted "$92" for "$88".

Subsec. (c). Pub. L. 92-197, § 3(c), substituted "$47" for "$45".

1970—Subsec. (a). Pub. L. 91-262, § 3(a), substituted "$32" for "$29".

Subsec. (b). Pub. L. 91-262, § 3(b), substituted "$88" for "$80".

Subsec. (c). Pub. L. 91-262, § 3(c), substituted "$45" for "$41".

1966—Subsec. (a). Pub. L. 89-730, § 5(1), substituted "$29" for "$28".

Subsec. (b). Pub. L. 89-730, § 5(2), substituted "$80" for "$77".

Subsec. (c). Pub. L. 89-730, § 5(3), substituted "41" for "39".

1965—Subsec. (c). Pub. L. 89-311 substituted "twenty-three" for "twenty-one".

1963—Subsec. (a). Pub. L. 88-21, § 3(1), substituted "$28" for "$25".

Subsec. (b). Pub. L. 88-21, § 3(2), substituted "$77" for "$70".

Subsec. (c). Pub. L. 88-21, § 3(3), substituted "$39" for "$35".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-71 effective Aug. 1, 1975, see section 301 of Pub. L. 94-71, set out as an Effective Date of 1975 Amendment note under section 314 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-295 effective May 1, 1974, see section 401 of Pub. L. 93-295, set out as an Effec-

tive Date of 1974 Amendment note under section 314 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-197 effective Jan. 1, 1972, see section 10 of Pub. L. 92-197, set out as an Effective Date of 1971 Amendment note under section 411 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-262 effective on the first day of the second calendar month following May, 1970, see section 4 of Pub. L. 91-262, set out as an Effective Date of 1970 Amendment note under section 413 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-730 effective on the first day of the second calendar month following the date of enactment of Pub. L. 89-730, which was approved Nov. 2, 1966, see section 7(a) of Pub. L. 89-730, set out as an Effective Date of 1966 Amendment note under section 415 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-311 effective on the first day of the second calendar month following the date of enactment of Pub. L. 89-311, which was approved on Oct. 31, 1965, see section 9 of Pub. L. 89-311, set out as an Effective Date of 1965 Amendment note under section 314 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88-21 effective on first day of second calendar month beginning after May 15, 1963, see section 5 of Pub. L. 88-21, set out as an Effective Date of 1963 Amendment note under section 411 of this title.

§ 415. Dependency and indemnity compensation to parents

(a) Dependency and indemnity compensation shall be paid monthly to parents of a deceased veteran in the amounts prescribed by this section.

(b)(1) Except as provided in paragraph (4) of this subsection, if there is only one parent, dependency and indemnity compensation shall be paid to the parent according to the following formula:

The monthly rate of dependency and indemnity compensation shall be $142 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$800
.03	$800	1,000
.04	1,000	1,200
.05	1,200	1,400
.06	1,400	1,600
.08	1,600	3,540

(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

(3) In no case may dependency and indemnity compensation be paid under paragraph (1) of this subsection to any parent if the annual income of such parent exceeds $3,540.

(4) If there is only one parent and such parent has remarried and is living with such parent's spouse, dependency and indemnity compensation shall be paid to such parent under either the formula of paragraph (1) of this subsection or under the formula in subsection (d), whichever is the greater. In such a case of remarriage the total combined annual income of the parent and such parent's spouse shall be counted in determining the monthly rate of dependency and indemnity compensation under the appropriate formula.

(c)(1) Except as provided in subsection (d) of this section, if there are two parents, but they are not living together, dependency and indemnity compensation shall be paid to each parent according to the following formula:

The monthly rate of dependency and indemnity compensation shall be $100 reduced by—	For each $1 of annual income of such parent	
	Which is more than—	But not more than—
$0.00	0	$800
.02	$800	1,100
.04	1,100	1,300
.05	1,300	2,300
.06	2,300	3,540

(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

(3) In no case may dependency and indemnity compensation be paid under paragraph (1) of this subsection to any parent if the annual income of such parent exceeds $3,540.

(d)(1) If there are two parents who are living together, or if a parent has remarried and is living with such parent's spouse, dependency and indemnity compensation shall be paid to each such parent according to the following formula:

The monthly rate of dependency and indemnity compensation shall be $96 reduced by—	For each $1 of the total combined annual income	
	Which is more than—	But not more than—
$0.00	0	$1,000
.02	$1,000	2,100
.03	2,100	3,100
.04	3,100	3,800
.05	3,800	4,760

(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

(3) In no case may dependency and indemnity compensation be paid under this subsection to a parent if the total combined annual income of the parent and such parent's spouse exceeds $4,760.

(e) The Administrator shall require as a condition of granting or continuing dependency and indemnity compensation to a parent that such parent, other than one who has attained seventy-two years of age and has been paid dependency and indemnity compensation during two consecutive calendar years, file each year with the Administrator (on the form prescribed by the Administrator) a report showing the total income which such parent expects to receive in that year and the total income which

such parent received in the preceding year. The parent or parents shall file with the Administrator a revised report whenever there is a material change in the estimated annual income.

(f) If the Administrator ascertains that there have been overpayments to a parent under this section, the Administrator shall deduct such overpayments (unless waived) from any future payments made to such parent under this section.

(g)(1) In determining income under this section, all payments of any kind or from any source shall be included, except—

(A) payments of the six-months' death gratuity;

(B) donations from public or private relief or welfare organizations;

(C) payments under this chapter (except section 412(a)) and chapters 11 and 15 of this title and under the first sentence of section 9(b) of the Veterans' Pension Act of 1959;

(D) lump-sum death payments under subchapter II of chapter 7 of title 42;

(E) payments of bonus or similar cash gratuity by any State based upon service in the Armed Forces;

(F) payments under policies of servicemen's group life insurance, United States Government life insurance or national service life insurance, and payments of servicemen's indemnity;

(G) 10 per centum of the amount of payments to an individual under public or private retirement, annuity, endowment, or similar plans or programs;

(H) amounts equal to amounts paid by a parent of a deceased veteran for—

(i) a deceased spouse's just debts,

(ii) the expenses of the spouse's last illness to the extent such expenses are not reimbursed under chapter 51 of this title, and

(iii) the expenses of the spouse's burial to the extent that such expenses are not reimbursed under chapter 23 or chapter 51 of this title;

(I) proceeds of fire insurance policies;

(J) amounts equal to amounts paid by a parent of a deceased veteran for—

(i) the expenses of the veteran's last illness, and

(ii) the expenses of such veteran's burial to the extent that such expenses are not reimbursed under chapter 23 of this title;

(K) profit realized from the disposition of real or personal property other than in the course of a business;

(L) payments received for discharge of jury duty or obligatory civic duties;

(M) payments of annuities elected under subchapter I of chapter 73 of title 10.

(2) Where a fraction of a dollar is involved, annual income shall be fixed at the next lower dollar.

(3) The Administrator may provide by regulation for the exclusion from income under this section of amounts paid by a parent for unusual medical expenses.

(h) The monthly rate of dependency and indemnity compensation payable to a parent shall be increased by $74 if such parent is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1129; Pub. L. 87-268, § 1(b), Sept. 21, 1961, 75 Stat. 566; Pub. L. 88-21, § 4, May 15, 1963, 77 Stat. 17; Pub. L. 89-730, §§ 1, 2, Nov. 2, 1966, 80 Stat. 1157, 1158; Pub. L. 90-275, § 2, Mar. 28, 1968, 82 Stat. 66; Pub. L. 91-588, §§ 2, 8(a), Dec. 24, 1970, 84 Stat. 1582, 1584; Pub. L. 92-197, § 4, Dec. 15, 1971, 85 Stat. 661; Pub. L. 92-425, § 6(1), Sept. 21, 1972, 6 Stat. 713; Pub. L. 93-177, § 4, Dec. 6, 1973, 87 Stat. 695; Pub. L. 93-527, § 7, Dec. 21, 1974, 88 Stat. 1704; Pub. L. 94-169, title II, § 201, Dec. 23, 1975, 89 Stat. 1019; Pub. L. 94-432, title III, § 301, Sept. 30, 1976, 90 Stat. 1371.)

REFERENCES IN TEXT

Section 9(b) of the Veterans' Pension Act of 1959, referred to in subsec. (g)(1)(C), is section 9(b) of Pub. L. 86-211, Aug. 29, 1959, 73 Stat. 432, which is set out in a Savings Provisions note under section 521 of this title.

AMENDMENTS

1976—Subsec. (b)(1). Pub. L. 94-432, § 301(1), increased the monthly rate of compensation from $133 to $142 and substituted $1,200 to $1,400 for $1,200 to $1,500, $1,400 to $1,600 for $1,500 to $1,700 and $1,600 to $3,540 for $1,700 to $3,300.

Subsec. (b)(3). Pub. L. 94-432, § 301(2), substituted "$3,540" for "$3,300".

Subsec. (c)(1). Pub. L. 94-432, § 301(3), increased the monthly rate of compensation from $93 to $100 and substituted $1,100 to $1,300 for $1,100 to $1,600, $1,300 to $2,300 for $1,600 to $2,400 and $2,300 to $3,540 for $2,400 to $3,300.

Subsec. (c)(3). Pub. L. 94-432, § 301(4), substituted "$3,540" for "$3,300".

Subsec. (d)(1). Pub. L. 94-432, § 301(5), increased the monthly compensation from $90 to $96 and substituted $1,000 to $2,100 for $1,000 to $2,300, $2,100 to $3,100 for $2,300 to $3,300 and $3,100 to $3,800 for $3,300 to $4,500, and added provision for reduction by $.05 for each $1 of total combined annual income which is more than $3,800 but not more than $4,760.

Subsec. (d)(3). Pub. L. 94-432, § 301(6), substituted "$4,760" for "$4,500".

Subsec. (h). Pub. L. 94-432, § 301(7), substituted "$74" for "$69".

1975—Subsec. (b)(1). Pub. L. 94-169, § 201(2), increased, effective for the period beginning Jan. 1, 1976, and ending Sept. 30, 1976, the monthly rate of compensation from $123 to $133, substituted $1000 to $1200 for $1000 to $1300, $1200 to $1500 for $1300 to $1600, $1500 to $1700 for $1600 to $1800 and $1700 to $3300 for $2000 to $3000, the minimum and maximum income ranges for which the compensation rate will be reduced by 4, 5, 6 and 8 cents per dollar, respectively, struck out the income range of $1800 to $2000 for which the reduction rate is 7 cents per dollar, increased from $4.00 to $5.00 the minimum payable compensation, and increased from $3,000 to $3300 the income in excess of which no compensation will be paid.

Subsec. (b)(2). Pub. L. 94-169, § 201(1), redesignated, effective for the period beginning Jan. 1, 1976, and ending Sept. 30, 1976, subsec. (b)(2) as (b)(4), and in subsec. (b)(4) as so redesignated, substituted "such parent has remarried" for "he has remarried", "with such parent's spouse" for "with his spouse", "paid to such parent" for "paid to him" and "parent and such parent's spouse" for "parent and his spouse".

Subsec. (c). Pub. L. 94-169, § 201(3), increased, effective for the period beginning Jan. 1, 1976, and ending Sept. 30, 1976, the monthly rate of compensation from $86 to $93, substituted $1100 to $1600 for $1100 to $2100, $1600 to $2400 for $2100 to $2500 and $2400 to $3300 for $2500 to $3000, the minimum and maximum

income ranges for which the compensation rate will be reduced 4, 5 and 6 cents, respectively, increased from $4.00 to $5.00 the minimum payable compensation, and increased from $3000 to $3300 the income in excess of which no compensation will be paid.

Subsec. (d). Pub. L. 94-169, § 201(3), increased, effective for the period beginning Jan. 1, 1976, and ending Sept. 30, 1976, the basic rate of monthly compensation from $83 to $90, substituted $1000 to $2300 for $1100 to $2500, $2300 to $3300 for $2500 to $3500 and $3300 to $4500 for $3500 to $4200 the minimum and maximum income ranges for which the compensation rate will be reduced by 2, 3, and 4 cents, respectively, struck out the income range of $1000 to $1100 for which the reduction rate is 1 cent per dollar, increased from $4.00 to $5.00 the minimum payable compensation, and increased from $4200 to $4500 the income in excess of which no compensation will be paid.

Subsec. (e). Pub. L. 94-169, § 201(4), substituted, effective for the period beginning Jan. 1, 1976, and ending Sept. 30, 1976, "with the Administrator" for "with him" and "prescribed by the Administrator" for "prescribed by him".

Subsec. (f). Pub. L. 94-169, § 201(5), substituted, effective for the period beginning Jan. 1, 1976, and ending Sept. 30, 1976, "the Administrator shall deduct" for "he shall deduct".

Subsec. (g)(1)(J)(ii). Pub. L. 94-169, § 201(6), substituted, effective for the period beginning Jan. 1, 1976, and ending Sept. 30, 1976, "such veteran's" for "his".

Subsec. (h). Pub. L. 94-169, § 201(7), substituted, effective for the period beginning Jan. 1, 1976, and ending Sept. 30, 1976, "$69" for "$64".

1974—Subsec. (b)(1). Pub. L. 93-527, § 7(1), substituted "$123" for "$110", "$1000" for "$1100" wherever appearing therein; "$1300" for "$1500" wherever appearing therein; "$1600" for "$1700" wherever appearing therein, "$1800" for "$2000" wherever appearing therein, "$2000" for "$2300" wherever appearing therein, and "$3000" for "$2600" wherever appearing therein, and provided that in no event shall the monthly rate be less than $4.00.

Subsec. (b)(2). Pub. L. 93-527, § 7(1), re-enacted subsec. (b)(2) without change.

Subsec. (c). Pub. L. 93-527, § 7(2), substituted "$86" for "$77", "$2100" for "$1400" wherever appearing therein; "$2500" for "$2300" wherever appearing therein "3000" for "2600" wherever appearing therein and "4 cents", "5 cents" and "6 cents" for "3 cents", "4 cents" and "5 cents", respectively, and added provision that in no event shall the monthly rate of dependency and indemnity compensation be less than $4.

Subsec. (d). Pub. L. 93-527, § 7(3), substituted "$83" for "$74", "$1,000" for "$1,200" wherever appearing therein; "$2500" for "$2900" wherever appearing therein, and "3500" for "$3800", and added provisions for reduction of 4 cents in the monthly rate for each dollar of annual income in excess of $3500 up to and including $4200, for not less than $4 for the monthly rate of dependency and indemnity compensation, and raised the maximum combined income for which compensation will be paid from $3800 to $4200.

Subsec. (h). Pub. L. 93-527, § 7(4), substituted "$64" for "$55".

1973—Subsec. (b)(1). Pub. L. 93-177, § 4(a), substituted "$110" for "$100", "$1,100" for "$1,200", "$1,500" for "$1,600", "$1,700" for "$1,900", "$2,000" for "$2,100", and "$2,300" for "$2,600" in the existing provisions and added provisions for a reduction of 8 cents in the monthly rate for each $1 annual income in excess of $2,300 up to and including $2,600.

Subsec. (b)(2). Pub. L. 93-177, § 4(a), re-enacted subsec. (b)(2) without change.

Subsec. (c). Pub. L. 93-177, § 4(b), substituted "$77" for "$70", "$1,400" for "$1,700", and "$2,300" for "$2,600" in the existing provisions and added provision for a reduction of 5 cents in the monthly rate for each $1 of annual income in excess of $2,300 up to and including $2,600.

Subsec. (d). Pub. L. 93-177, § 4(c); substituted "$74" for "$67", "$1,200" for "$1,300", and "$2,900" for "$3,400".

1972—Subsec. (g)(1)(M). Pub. L. 92-425 substituted "subchapter I of chapter 73 of title 10" for "chapter 73 of title 10".

1971—Subsec. (b)(1). Pub. L. 92-197, § 4(a), substituted formula to measure monthly compensation rate of one parent by specifying a maximum monthly rate for each group within designated income category and each individual's monthly rate to be computed by reducing the maximum monthly rate by a specified number of cents for each dollar by which the minimum income limitation for that group is exceeded, for table providing for income and benefit rates, and increased the maximum income limit to $2,600 from $2,300.

Subsec. (b)(2). Pub. L. 92-197, § 4(a), substituted reference to formula in subsecs. (b)(1) and (d), for reference to tables in subsecs. (b)(1) and (d).

Subsec. (c). Pub. L. 92-197, § 4(b), substituted formula to measure dependency and indemnity compensation rates of two parents not living together by specifying a maximum monthly rate for each group within designated income category and each individual's monthly rate to be computed by reducing the maximum monthly rate by a specified number of cents for each dollar by which the minimum income limitation for that group is exceeded, for table providing for income and benefit rates, and increased the maximum income limit to $2,600 from $2,300.

Subsec. (d). Pub. L. 92-197, § 4(c), substituted formula to measure dependency and indemnity compensation to two parents living together or a remarried parent living with his spouse by specifying a maximum monthly rate for each group within designated income category and each individual's monthly rate to be computed by reducing the maximum monthly rate by a specified number of cents for each dollar by which the minimum income limitation for that group is exceeded, for table providing for income and benefit rates, and increased the maximum income limit to $3,800 from $3,500.

Subsec. (g). Pub. L. 92-197, § 4(d), redesignated par. (2) as par. (3) and added par. (2).

Subsec. (h). Pub. L. 92-197, § 4(e), added subsec. (h).

1970—Subsec. (b)(1). Pub. L. 91-588, § 2(a), provided new annual income limits to measure monthly compensation of one parent by adding minimum income limits of $2,000, $2,100, and $2,200 with maximum limits of $2,100, $2,200, and $2,300 for monthly benefits of $18, $12, and $10, respectively, and within existing annual income limits from a maximum of $800 to a maximum of $2,000, as well as the in-between limits set out in one-hundred dollar increments, the applicable monthly benefit for each limit was amended, respectively, by substituting in column II "$96" for "$87", "94" for "81", "91" for "75", "87" for "69", "81" for "62", "75" for "54", "69" for "46", "62" for "38", "54" for "31", "46" for "25", "38" for "18", "31" for "12", and "25" for "10".

Subsec. (c). Pub. L. 91-588, § 2(b), provided new annual income limits to measure monthly compensation of two parents not living together by adding minimum income limits of $2,000, $2,100, and $2,200 with maximum limits of $2,100, $2,200, and $2,300 for monthly benefits of $14, $12, and $10, respectively, and within existing annual income limits from a maximum of $800 to a maximum of $2,000, as well as the in-between limits set out in one-hundred dollar increments, the applicable monthly benefit for each limit was amended, respectively, by substituting in column II "$66" for "$58", "64" for "54", "61" for "50", "58" for "46", "54" for "41", "50" for "35", "46" for "29", "41" for "23", "35" for "20", "29" for "16", "23" for "12", "20" for "11", and "16" for "10".

Subsec. (d). Pub. L. 91-588, § 2(c), provided new annual income limits to measure monthly compensation of two parents living together by adding minimum income limits of $3,200, $3,300, and $3,400 with maximum limits of $3,300, $3,400, and $3,500 for monthly benefits of $14, $12, and $10, respectively, and within existing annual income limits from a maximum of $1,000 to a maximum of $3,200, as well as the

in-between limits set out in one-hundred dollar increments, the applicable monthly benefit for each limit was amended, respectively, by substituting in column II "$64" for "$58", "62" for "56", "60" for "54", "58" for "52", "56" for "49", "54" for "46", "52" for "44", "49" for "42", "46" for "40", "44" for "38", "42" for "35", "40" for "33", "38" for "31", "35" for "29", "33" for "26", "31" for "23", "29" for "21", "27" for "19", "25" for "17", "23" for "15", "21" for "12", "19" for "11", and "17" for "10".

Subsec. (e). Pub. L. 91-588, § 2(d), exempted from filing requirement any parent who has attained 72 years of age and has been paid dependency and indemnity compensation during two consecutive calendar years.

Subsec. (g)(1)(C). Pub. L. 91-588, § 8(a), added reference to the first sentence of section 9(b) of the Veterans' Pension Act of 1959.

Subsec. (g)(1)(M). Pub. L. 91-588, § 8(a), added subsec. (g)(1)(M).

1968—Subsec. (b)(1). Pub. L. 90-275, § 2(a), in providing new annual income limits to measure monthly compensation of one parent, reenacted minimum income limit of $800 for monthly benefit of $87, eliminated prohibition against payments when income is in excess of $1,800, and substituted a sliding scale of payments based on one hundred dollar increments from more than $800 to more than $1,900 to $2,000 for payments of $81 to 10 for former sliding scale based on limits of $800 to 1,100, $1,100 to 1,300, $1,300 to 1,500, and $1,500 to 1,800 for payments of $69, $52, $35, and $18, respectively.

Subsec. (c). Pub. L. 90-275, § 2(b), in providing new annual income limits to measure monthly compensation of two parents not living together, reenacted minimum income limit of $800 for monthly benefit of $58, eliminated prohibition against payments when income is in excess of $1,800, and substituted a sliding scale of payments based on one hundred dollar increments from more than $800 to more than $1,900 to $2,000 for payments of $54 to 10 for former sliding scale based on limits of $800 to 1,100, $1,100 to 1,300, $1,300 to 1,500, and $1,500 to 1,800 for payments of $46, $35, $23, and $12, respectively.

Subsec. (d). Pub. L. 90-275, § 2(c), in providing new annual income limits to measure monthly compensation of two parents living together, reenacted minimum combined income limit of $1,000 for monthly benefit of $58, eliminated prohibition against payments when income is in excess of $3,000, and substituted a sliding scale of payments based on one hundred dollar increments from more than $1,000 to $3,100 for payments of $56 to 11 for former sliding scale based on five hundred dollar increments from more than $1,000 to $3,000 for payments of $58, $46, $35, $23, and $12.

1966—Subsec. (b). Pub. L. 89-730, § 1(a), designated existing subsection as par. (1), and in par. (1) as so designated, substituted reference to subsec. (b)(2) for subsec. (d), amended the table by providing for increased indemnity compensation while permitting the recipient to earn a higher maximum annual income, and added par. (2).

Subsec. (c). Pub. L. 89-730, § 1(b), amended the table by providing for increased indemnity compensation while permitting the recipient to earn a higher maximum annual income.

Subsec. (d). Pub. L. 89-730, § 1(c), amended the table by providing for increased indemnity compensation while permitting the recipients to earn a higher combined maximum annual income.

Subsec. (g)(1). Pub. L. 89-730, § 2, in clause (C) struck out "chapter 11" and substituted "chapters 11 and 15", and added clauses (F) to (L).

1963—Subsec. (b). Pub. L. 88-21, § 4(a), substituted in Column II of the table "$83", "$66", "$50", "$33", and "$17" for "$75", "$60", "$45", "$30", and "$15", respectively.

Subsecs. (c), (d). Pub. L. 88-21, § 4(b), substituted in Column II of the tables "$55", "$44", "$33", "$22", and "$11" for "50", "$40", "$30", "$20" and "$10", respectively.

1961—Subsec. (g)(1)(C). Pub. L. 87-268 substituted "section 412(a)" for "section 412".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-432 effective Jan. 1, 1977, see section 405(b) of Pub. L. 94-432, set out as an Effective Date of 1976 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 201 of Pub. L. 94-169, as amended by section 101 of Pub. L. 94-432, eff. Sept. 30, 1976, provided in part that the amendments of subsecs. (b) to (h) by section 201 of Pub. L. 94-169 were effective Jan. 1, 1976.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-527 effective Jan. 1, 1975, see section 10 of Pub. L. 93-527, set out as an Effective Date of 1974 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-177 effective Jan. 1, 1974, see section 8 of Pub. L. 93-177, set out as an Effective Date of 1973 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-197 effective Jan. 1, 1972, see section 10 of Pub. L. 92-197, set out as an Effective Date of 1971 Amendment note under section 411 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by sections 2(a), (b), (c), and 8(a) of Pub. L. 91-588, effective on Jan. 1, 1971, see section 10(a) of Pub. L. 91-588, set out as an Effective Date of 1970 Amendment note under section 521 of this title.

Amendment by section 2(d) of Pub. L. 91-588, effective on Jan. 1, 1972, see section 10(b) of Pub. L. 91-588, set out as an Effective Date of 1970 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-275 effective Jan. 1, 1969, see section 6(a) of Pub. L. 90-275, set out as an Effective Date of 1968 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 7 of Pub. L. 89-730 provided that:

"(a) Except section 6 [amending note under section 776 of this title and enacting provisions set out thereunder] and as otherwise provided in subsection (b) of this section, this Act [amending subsecs. (b), (c), and (d) of this section and sections 413, 414, and 3012 of this title] shall take effect on the first day of the second calendar month following the date of enactment of this Act [Nov. 2, 1966].

"(b) Section 2 of this Act [amending subsec. (g)(1) of this section] shall take effect on January 1, 1967, but paragraph (G) of section 415(g)(1), title 38, United States Code [subsec. (g)(1)(G) of this section], as added by such section 2, shall not apply to any parent receiving dependency and indemnity compensation on December 31, 1966, or subsequently determined entitled to that benefit for said day, until his contributions to the described plans or programs have been recouped."

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88-21 effective on first day of second calendar month beginning after May 15, 1963, see section 5 of Pub. L. 88-21, set out as an Effective Date of 1963 Amendment note under section 411 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-268 effective on Oct. 1, 1961, see section 3 of Pub. L. 87-268, set out as an Ef-

fective Date of 1961 Amendment note under section 412 of this title.

PENSION, DEPENDENCY, AND INDEMNITY COMPENSATION; RELATION TO SOCIAL SECURITY AMENDMENTS OF 1967

Payments for balance of calendar year 1968 and calendar year 1969, calendar year 1970, and during each successive calendar year at prescribed monthly rates when payments would be less under this title as a result of increase in monthly insurance benefits provided by Social Security Amendments of 1967, see section 3 of Pub. L. 90-275, set out as a note under section 521 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 416 of this title.

§ 416. Dependency and indemnity compensation in cases of prior deaths

(a)(1) Any person who is eligible as a surviving spouse or child for death compensation by reason of a death occurring before January 1, 1957, may receive dependency and indemnity compensation upon application therefor.

(2) Any person who is eligible as a parent, or, but for such person's annual income, would be eligible as a parent, for death compensation by reason of a death occurring before January 1, 1957, may receive dependency and indemnity compensation upon application therefor; however, the annual income limitations established by section 415 of this title shall apply to each such parent.

(b)(1) Whenever the surviving spouse of a veteran has been granted dependency and indemnity compensation by reason of this section, payments to such surviving spouse and to the children of the veteran shall thereafter be made under this chapter, and shall not thereafter be made to them by reason of the death of the veteran under (A) other provisions of law administered by the Veterans' Administration providing for the payment of compensation or pension, or (B) the Federal Employees' Compensation Act.

(2) Whenever the child or parent of any veteran is granted dependency and indemnity compensation, payments shall not thereafter be made to such child or parent by reason of the death of the veteran under (A) other provisions of law administered by the Veterans' Administration providing for the payment of compensation or pension, or (B) the Federal Employees' Compensation Act.

(c) If children of a deceased individual are receiving death compensation, and all such children have not applied for dependency and indemnity compensation, (1) dependency and indemnity compensation paid to each child who has applied therefor shall not exceed the amounts which would be paid if the application had been made by, or on behalf of, all such children, and (2) benefits paid under other provisions of law administered by the Veterans' Administration providing for the payment of compensation or pension, or under the Federal Employees' Compensation Act, to each child who has not so applied therefor shall not exceed the amounts which would be paid to such child if no such application had been made.

(d) If there are two parents of a deceased individual eligible for benefits by reason of subsection (a), and an application for dependency and indemnity compensation is not made by both parents, (1) dependency and indemnity compensation paid to the parent who applies therefor shall not exceed the amounts which would be paid to such parent if both parents had so applied, and (2) benefits paid under other provisions of law administered by the Veterans' Administration providing for the payment of compensation, or under the Federal Employees' Compensation Act, to the parent who has not so applied therefor shall not exceed the amounts which would be paid to such parent if no such application had been made.

(e)(1) Except as provided in paragraphs (3) and (4), no person who, on January 1, 1957, was a principal or contingent beneficiary of any payments under the Servicemen's Indemnity Act of 1951 may receive any such payments based upon the death giving rise to such payments after such person has been granted dependency and indemnity compensation based upon that death. No principal or contingent beneficiary who has assigned such beneficiary's interest in payments under the Servicemen's Indemnity Act of 1951 after June 28, 1956, may receive any payments under this chapter based upon the death giving rise to such payments until the portion of the indemnity so assigned is no longer payable to any person.

(2) Where a beneficiary is barred from the receipt of payments under the Servicemen's Indemnity Act of 1951 by virtue of the first sentence of paragraph (1), no payments of the portion of indemnity in which such beneficiary had an interest shall be made to any other beneficiary.

(3) In the case of a child who has applied for dependency and indemnity compensation pursuant to this section or prior corresponding provisions of law, and who is or becomes a beneficiary under the Servicemen's Indemnity Act of 1951 by reason of the death giving rise to such child's eligibility for dependency and indemnity compensation, the Administrator shall determine and pay to such child for each month, or part thereof, payments under this chapter or under such Act, whichever payment the Administrator determines to be the greater amount.

(4) Notwithstanding paragraph (2), where a child receives dependency and indemnity compensation under this chapter, and thereafter dies, the portion of servicemen's indemnity in which such child had an interest may be paid (subject to paragraph (3)) to another child of the person by reason of whose death such servicemen's indemnity was payable.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1130; Pub. L. 94-433, title IV, § 405(11)-(16), Sept. 30, 1976, 90 Stat. 1380.)

REFERENCES IN TEXT

The Federal Employees' Compensation Act, referred to in subsecs. (b) to (d), which is act Sept. 7, 1916, ch. 458, 39 Stat. 742, as amended, was repealed and the provisions thereof reenacted as subchapter I (§ 8101 et seq.) of chapter 81 of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

The Servicemen's Indemnity Act of 1951, referred to in subsec. (e), is act Apr. 25, 1951, ch. 39, pt. I, 65 Stat. 33, as amended, which was classified generally to sub-

chapter II (§ 851 et seq.) of chapter 13 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and was repealed by act Aug. 1, 1956, ch. 873, title V, § 502(9), 70 Stat. 886.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-433, § 405(11), substituted in par. (1) "surviving spouse" for "widow" and in par. (2) "such person's" for "his".

Subsec. (b)(1). Pub. L. 94-433, § 405(12), substituted "surviving spouse" and "such surviving spouse" for "widow" and "her", respectively.

Subsec. (c). Pub. L. 94-433, § 405(13), substituted "paid to such child" for "paid to him".

Subsec. (d). Pub. L. 94-433, § 405(14), substituted "such parent" for "him" in cls. (1) and (2).

Subsec. (e). Pub. L. 94-433, § 405(15), (16), substituted in par. (1) "such person" and "such beneficiary's" for "he" and "his" and in par. (3) "such child's" and "the Administrator" for "his" and "he", respectively.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

§ 417. Restriction on payments under this chapter

No person eligible for dependency and indemnity compensation by reason of any death occurring after December 31, 1956, shall be eligible by reason of such death for any payments under (1) provisions of law administered by the Veterans' Administration providing for the payment of death compensation or death pension, or (2) the Federal Employees' Compensation Act.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1132; Pub. L. 91-291, § 13(a), (b), June 25, 1970, 84 Stat. 332; Pub. L. 92-197, § 5, Dec. 15, 1971, 85 Stat. 662.)

REFERENCES IN TEXT

The Federal Employees' Compensation Act, referred to in text, which is act Sept. 7, 1916, ch. 458, 39 Stat. 742, as amended, was repealed and the provisions thereof reenacted as subchapter I (§ 8101 et seq.) of chapter 81 of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1971—Pub. L. 92-197 struck out subsec. (a), which, among other provisions, restricted payment of dependency and indemnity compensation in certain cases where death of a veteran occurred while United States Government life insurance or National Service Life Insurance was in force under an in-service waiver of premiums continued under section 724 of this title, and designated subsec. (b) as the entire section.

1970—Subsec. (a). Pub. L. 91-291 designated material following "unless" in the first sentence as cl. (1), added cl. (2) and in the last sentence, substituted "first sentence" for "preceding sentence".

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-197 effective Jan. 1, 1972, see section 10 of Pub. L. 92-197, set out as an Effective Date of 1971 Amendment note under section 411 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 13(c) of Pub. L. 91-291 provided that: "No dependency and indemnity compensation shall be payable to any person by virtue of the amendments made by subsection (a) of this section [amending subsec. (a) of this section] for any person prior to the effective date of this Act [June 25, 1970]."

Section 14(a) of Pub. L. 91-291 provided that: "The amendments made by this Act [amending sections 417, 705, 707, 745, 765, 767, 768, 769, 770 and 774 of this title and enacting provisions set out as notes under this section] shall take effect as of the date of enactment [June 25, 1970], except that sections 10 and 12 [amending sections 717 and 752 of this title] shall take effect as of the first day of the first calendar month which begins more than six calendar months after the date of enactment of this Act [June 25, 1970]."

DEPENDENCY AND INDEMNITY COMPENSATION; ELIGIBILITY

Section 8 of Pub. L. 92-197 provided that: "Any person who before January 1, 1972, was not eligible for dependency and indemnity compensation under such title by reason of the provisions of the prior section 417(a) of title 38, United States Code, may elect, in such manner as the Administrator of Veterans' Affairs shall prescribe, to receive dependency and indemnity compensation, and an election so made shall be final. A person receiving, or entitled to receive, death compensation on December 31, 1971, shall continue to receive death compensation, if otherwise eligible, in the absence of an election to receive dependency and indemnity compensation."

SUBCHAPTER III—CERTIFICATIONS

§ 421. Certifications with respect to pay grade

The Secretary concerned shall, at the request of the Administrator, certify to the Administrator the pay grade of deceased persons with respect to whose deaths applications for benefits are filed under this chapter. The certification of the Secretary concerned shall be binding upon the Administrator.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1132; Pub. L. 91-96, § 4, Oct. 27, 1969, 83 Stat. 145; Pub. L. 94-433, title IV, § 405(17), Sept. 30, 1976, 90 Stat. 1380.)

AMENDMENTS

1976—Pub. L. 94-433 substituted "to the Administrator" for "to him".

1969—Pub. L. 91-96 substituted in the section catchline "Certifications with respect to pay grade" for "Certifications with respect to basic pay", substituted provisions authorizing certifications with respect to the pay grade of deceased persons for provisions authorizing certifications with respect to the basic pay of deceased persons, considering rank or grade and cumulative years of service for pay purposes, and struck out the provision requiring the adjustment of basic pay as determined by this chapter whenever basic pay (as defined under the former provisions of section 401 of this title) is adjusted.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-96 effective on the first day of the second calendar month which begins after Oct. 27, 1969, see section 8 of Pub. L. 91-96, set out as an Effective Date of 1969 Amendment note under section 402 of this title.

§ 422. Certifications with respect to social security entitlement

(a) Determinations required by section 412(a) of this title (other than a determination required by section 412(a)(2) of this title) as to whether any survivor described in section

412(a)(3) of this title of a deceased individual would be entitled to benefits under section 402 of title 42 for any month and as to the amount of the benefits which would be paid for such month, if the deceased veteran had been a fully and currently insured individual at the time of such veteran's death, shall be made by the Secretary of Health, Education, and Welfare, and shall be certified by such Secretary to the Administrator upon request of the Administrator.

(b) Upon the basis of estimates made by the Secretary of Health, Education, and Welfare after consultation with the Administrator, the Administrator shall pay to the Secretary an amount equal to the costs which will be incurred in making determinations and certifications under subsection (a). Such payments shall be made with respect to the costs incurred during such period (but not shorter than a calendar quarter) as the Secretary and the Administrator may prescribe. The amount payable for any period shall be increased or reduced to compensate for any underpayment or overpayment, as the case may be, of the costs incurred in any preceding period.

(c) Except with respect to determinations made under subsection (a) of this section, the Administrator shall prescribe such regulations as may be necessary to carry out the provisions of this section and section 412(a) of this title.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1132; Pub. L. 87-268, § 1(b), (c), Sept. 21, 1961, 75 Stat. 566; Pub. L. 94-433, title IV, § 405(18), Sept. 30, 1976, 90 Stat. 1380.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-433 substituted "such veteran's" and "such Secretary" for "his" and "him", respectively.

1961—Subsec. (a). Pub. L. 87-268 § 1(c), substituted "section 412(a)" for "section 412", "section 412(a)(2)" for "section 412(2)", and "section 412(a)(3)" for "section 412(3)".

Subsec. (c). Pub. L. 87-268, § 1(b), substituted "section 412(a)" for "section 412".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-268 effective on Oct. 1, 1961, see section 3 of Pub. L. 87-268, set out as an Effective Date of 1961 Amendment note under section 412 of this title.

§ 423. Certifications by Administrator

Whenever the Administrator determines on the basis of a claim for benefits filed with the Administrator that a death occurred under the circumstances referred to in section 1476(a) of title 10, or section 321(b) of title 32, the Administrator shall certify that fact to the Secretary concerned. In all other cases, the Administrator shall make the determination referred to in such section 1476(a) or 321(b) at the request of the Secretary concerned.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1133; Pub. L. 94-433, title IV, § 405(19), Sept. 30, 1976, 90 Stat. 1380.)

AMENDMENTS

1976—Pub. L. 94-433 substituted "with the Administrator" for "with him" and "the Administrator" for "he" preceding "shall certify" and "shall make".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

CHAPTER 15—PENSION FOR NON-SERVICE-CONNECTED DISABILITY OR DEATH OR FOR SERVICE

SUBCHAPTER I—GENERAL

Sec.
501. Definitions.
502. Determinations with respect to disability.
503. Determinations with respect to annual income.
504. Persons heretofore having a pensionable status.
505. Payment of pension during confinement in penal institutions.
506. Resource reports and overpayment adjustments.
507. Disappearance.

SUBCHAPTER II—VETERANS' PENSIONS

SERVICE PENSION

[510. Repealed.]
511. Indian War veterans.
512. Spanish-American War veterans.

NON-SERVICE-CONNECTED DISABILITY PENSION

521. Veterans of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era.
522. Net worth limitation.
523. Combination of ratings.

SUBCHAPTER III—PENSIONS TO SURVIVING SPOUSES AND CHILDREN

WARS BEFORE WORLD WAR I

[531. Repealed.]
532. Surviving spouses of Civil War veterans.
533. Children of Civil War veterans.
534. Surviving spouses of Indian War veterans.
535. Children of Indian War veterans.
536. Surviving spouses of Spanish-American War veterans.
537. Children of Spanish-American War veterans.

MEXICAN BORDER PERIOD, WORLD WAR I, WORLD WAR II, KOREAN CONFLICT, AND THE VIETNAM ERA

541. Surviving spouses of Mexican border period, World War I, World War II, Korean conflict, or Vietnam era veterans.
542. Children of Mexican border period, World War I, World War II, Korean Conflict, or Vietnam era veterans.[1]
543. Net worth limitation.

SURVIVING SPOUSES OF VETERANS OF ALL PERIODS OF WAR

544. Aid and attendance allowance.

SUBCHAPTER IV—ARMY, NAVY, AIR FORCE, AND COAST GUARD MEDAL OF HONOR ROLL

560. Medal of honor roll; persons eligible.[1]
561. Certificate.
562. Special provisions relating to pension.

AMENDMENTS

1975—Pub. L. 94-169, title I, §§ 101(2)(J), 106(24), (30), (38), Dec. 23, 1975, 89 Stat. 1014, 1018, 1019,

[1] So in original. Does not conform to section catchline.

struck out items 510 relating to confederate forces veterans, and 531 relating to widows of Mexican War veterans, substituted "Surviving Spouses" for "Widows" in heading of Subchapter III and subheading preceding item 544, and substituted "Surviving spouses" for "Widows" in items 532, 534, 536 and 541.

1970—Pub. L. 91-588, § 9(h), Dec. 24, 1970, 84 Stat. 1585, added references to the Mexican border period in subheading preceding item 541 and in items 521, 541, and 542, respectively.

1967—Pub. L. 90-77, title I, § 108(b), title II, § 202(i), Aug. 31, 1967, 81 Stat. 180, 183, added item 544 and included references to Vietnam era in subheading preceding item 541 and in items 521, 541, and 542, respectively.

1966—Pub. L. 89-467, § 1(b), June 22, 1966, 80 Stat. 218, added item 507.

1963—Pub. L. 88-77, § 5(3), July 25, 1963, 77 Stat. 96, substituted "Army, Navy, Air Force, and Coast Guard" for "Army, Navy, and Air Force", in the heading of Subchapter IV.

1961—Pub. L. 87-138, § 2(b), Aug. 14, 1961, 75 Stat. 339, deleted "entitling holder to pension" following "Certificate" in item 561.

1959—Pub. L. 86-211, § 7(a), Aug. 29, 1959, 73 Stat. 436, substituted "Determinations with respect to annual income" for "Items not considered in determining income" in item 503, "Net worth limitation" for "Income limitations" in item 522, and "Net worth limitation" for "Widows of World War II or Korean conflict veterans" in item 543, included widows of World War II and Korean conflict veterans in item 541 and children of World War II and Korean conflict veterans in item 542, added item 506, and eliminated items 544 and 545 which related to children of World War II or Korean conflict veterans and to income limitations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 412, 415, 617, 3110 of this title; title 42 section 6862.

SUBCHAPTER I—GENERAL

§ 501. Definitions

For the purposes of this chapter—

(1) The term "Indian Wars" means the campaigns, engagements, and expeditions of the United States military forces against Indian tribes or nations, service in which has been recognized heretofore as pensionable service.

(2) The term "World War I" includes, in the case of any veteran, any period of service performed by such veteran after November 11, 1918, and before July 2, 1921, if such veteran served in the active military, naval, or air service after April 5, 1917, and before November 12, 1918.

(3) The term "Civil War veteran" includes a person who served in the military or naval forces of the Confederate States of America during the Civil War, and the term "active military or naval service" includes active service in those forces.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1134; Pub. L. 94-169, title I, § 106(1), Dec. 23, 1975, 89 Stat. 1017.)

AMENDMENTS

1975—Par. (2). Pub. L. 94-169 substituted "such veteran" for "him".

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94-169 provided in part that the amendment by Pub. L. 94-169 is effective Jan. 1, 1976.

PENSION PROGRAM FOR NONSERVICE-CONNECTED DISABILITY OR DEATH; REPORT BY ADMINISTRATOR

Pub. L. 94-432, title IV, § 404, Sept. 30, 1976, 90 Stat. 1372, provided that, due to certain insufficiencies in the pension program for nonservice-connected disability or death authorized by this chapter, and the lack of sufficient long-range information as to actual and anticipated financial characteristics of potential pensioners and their families upon which to estimate costs of existing alternative pension programs, it was necessary for the Administrator of Veterans' Affairs to study existing and alternative nonservice-connected pension programs and to submit a report to Congress and the President not later than Oct. 1, 1977 on alternative courses of legislative and administrative action and long-range cost estimates therefor.

STUDY OF NEEDS AND PROBLEMS OF VETERANS AND THEIR WIDOWS SEVENTY-TWO YEARS OF AGE OR OLDER; REPORT BY ADMINISTRATOR

Pub. L. 93-527, § 8, Dec. 21, 1974, 88 Stat. 1705, authorized the Administrator of Veterans' Affairs to study the needs and problems of veterans and their widows seventy-two years of age or older and required him to report to Congress and the President not later than one hundred and eighty days after the convening of the Ninety-fourth Congress the results of the study together with any recommendations for legislative or administrative action.

§ 502. Determinations with respect to disability

(a) For the purposes of this chapter, a person shall be considered to be permanently and totally disabled if such person is sixty-five years of age or older or became unemployable after age 65, or suffering from—

(1) any disability which is sufficient to render it impossible for the average person to follow a substantially gainful occupation, but only if it is reasonably certain that such disability will continue throughout the life of the disabled person; or

(2) any disease or disorder determined by the Administrator to be of such a nature or extent as to justify a determination that persons suffering therefrom are permanently and totally disabled.

(b) For the purposes of this chapter, a person shall be considered to be in need of regular aid and attendance if such person is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(c) For the purposes of this chapter, the requirement of "permanently housebound" will be considered to have been met when the veteran is substantially confined to such veteran's house (ward or clinical areas, if institutionalized) or immediate premises due to a disability or disabilities which it is reasonably certain will remain throughout such veteran's lifetime.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1134; Pub. L. 88-664, § 6(b), Oct. 13, 1964, 78 Stat. 1095; Pub. L. 90-77, title I, § 102, Aug. 31, 1967, 81 Stat. 178; Pub. L. 94-169, title I, § 106(2), Dec. 23, 1975, 89 Stat. 1017; Pub. L. 94-432, title II, § 201, Sept. 30, 1976, 90 Stat. 1369.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-432 inserted in introductory clause "or became unemployable after age 65," following "or older".

1975—Subsec. (a). Pub. L. 94-169 substituted "such person" for "he".

Subsec. (b). Pub. L. 94-169 substituted "such person" for "he".

Subsec. (c). Pub. L. 94-169 substituted "such veteran's" for "his" wherever appearing therein.

1967—Subsec. (a). Pub. L. 90-77, § 102(a), provided for consideration of a person sixty-five years of age or older as permanently and totally disabled.

Subsec. (b). Pub. L. 90-77, § 102(b), added clause (1) and designated existing provisions as clause (2).

1964—Subsec. (c). Pub. L. 88-664 added subsec. (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-432 effective Jan. 1, 1977, see section 405(b) of Pub. L. 94-432, set out as an Effective Date of 1976 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94-169 provided in part that amendment by Pub. L. 94-169 is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-664 effective Jan. 1, 1965, see section 11 of Pub. L. 88-664, set out as an Effective Date of 1964 Amendment note under section 503 of this title.

§ 503. Determinations with respect to annual income

(a) In determining annual income under this chapter, all payments of any kind or from any source (including salary, retirement or annuity payments, or similar income, which has been waived, irrespective of whether the waiver was made pursuant to statute, contract, or otherwise) shall be included except—

(1) payments of the six-months' death gratuity;

(2) donations from public or private relief or welfare organizations;

(3) payments under this chapter, and chapters 11 and 13 (except section 412(a)) of this title;

(4) payments under policies of servicemen's group life insurance, United States Government life insurance or National Service Life Insurance, and payments of servicemen's indemnity;

(5) lump sum death payments under subchapter II of chapter 7 of title 42;

(6) 10 per centum of the amount of payments to an individual under public or private retirement annuity, endowment, or similar plans or programs;

(7) amounts equal to amounts paid by a spouse of a veteran for the expenses of such veteran's last illness, and by a surviving spouse or child of a deceased veteran for—

(A) such veteran's just debts,

(B) the expenses of such veteran's last illness, and

(C) the expenses of such veteran's burial to the extent such expenses are not reimbursed under chapter 23 of this title;

(8) proceeds of fire insurance policies.

(9) amounts equal to amounts paid (A) by a veteran for the last illness and burial of such veteran's deceased spouse or child or (B) by a surviving spouse or a spouse of a veteran for the last illness and burial of a child of such veteran;

(10) profit realized from the disposition of real or personal property other than in the course of a business;

(11) payments received for discharge of jury duty or obligatory civic duties;

(12) payments of educational assistance allowance or special training allowance under chapter 35 of this title;

(13) payments of bonus or similar cash gratuity by any State based on service in the Armed Forces;

(14) amounts equal to prepayments on an indebtedness secured by a mortgage, or similar type security instrument, on real property (which was prior to death the principal residence of a veteran and spouse) made by the veteran or such veteran's surviving spouse, after the death of the spouse, during the year of death and the succeeding year, if said indebtedness was in existence at the time of death;

(15) amounts in joint accounts in banks and similar institutions acquired by reason of death of other joint owner;

(16) payments received by a retired employee from such employee's former employer as reimbursement for monthly premiums for supplementary medical insurance benefits for the aged provided by part B of title XVIII of the Social Security Act, as amended; and

(17) payments of annuities elected under subchapter I of chapter 73 of title 10.

(b) Where a fraction of a dollar is involved, annual income shall be fixed at the next lower dollar.

(c) The Administrator may provide by regulation for the exclusion from income under this chapter of amounts paid by a veteran, surviving spouse, or child for unusual medical expenses.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1134; Pub. L. 86-211, § 2(a), Aug. 29, 1959, 73 Stat. 432; Pub. L. 87-268, § 1(b), Sept. 21, 1961, 75 Stat. 566; Pub. L. 88-664, § 1, Oct. 13, 1964, 78 Stat. 1094; Pub. L. 90-77, title I, § 103, Aug. 31, 1967, 81 Stat. 178; Pub. L. 91-588, § 7, Dec. 24, 1970, 84 Stat. 1584; Pub. L. 92-198, § 2, Dec. 15, 1971, 85 Stat. 664; Pub. L. 92-425, § 6(2), Sept. 21, 1972, 86 Stat. 713; Pub. L. 94-169, title I, §§ 101(2)(A), 106(3)-(8), Dec. 23, 1975, 89 Stat. 1013, 1017.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(16), is act Aug. 14, 1935, ch. 531, 49 Stat. 620 as amended. Part B of title XVIII of the Social Security Act is classified generally to Part B (§ 1395j et seq.) of subchapter XVIII of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables volume.

AMENDMENTS

1975—Subsec. (a)(7). Pub. L. 94-169, § 106(3), (4), substituted "spouse" for "wife", "such veteran's" for "his" and "surviving spouse" for "widow" in the introductory clause and "such veteran's" for "his" in subcls. (A), (B) and (C).

Subsec. (a)(9). Pub. L. 94-169, § 106(5), substituted "such veteran's" for "his" in subcl. (A) and "surviving

spouse" and "spouse" for "widow" and "wife", respectively, in subcl. (B).

Subsec. (a)(14). Pub. L. 94-169, § 106(6), substituted "such veteran's surviving spouse" for "his widow".

Subsec. (a)(16). Pub. L. 94-169, §§ 101(2)(A), 106(7), added "and" following "as amended;", and substituted "such employee's" for "his", respectively.

Subsec. (c). Pub. L. 94-169, § 106(8), substituted "surviving spouse" for "widow".

1972—Par. (17). Pub. L. 92-425 substituted "subchapter I of chapter 73 of title 10" for "chapter 73 of title 10".

1971—Pub. L. 92-198 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

1970—Par. (4). Pub. L. 91-588, § 7(1), added reference to servicemen's group life insurance.

Pars. (14) to (17). Pub. L. 91-588, § 7(3), added pars. (14) to (17).

1967—Par. (7). Pub. L. 90-77, § 103(a), provided for exclusion of amounts paid by a wife of a veteran for the expenses of his past illness.

Par. (9). Pub. L. 90-77, § 103(b), designated existing provisions as subpar. (A) and added subpar. (B).

1964—Par. (6). Pub. L. 88-664, § 1(a), inserted "10 per centum of the amount of" preceding "payments" and deleted "equal to his contributions thereto" following "programs".

Pars. (9) to (13). Pub. L. 88-664, § 1(b), added pars. (9) to (13).

1961—Pub. L. 87-268 substituted "section 412(a)" for "section 412".

1959—Pub. L. 86-211 among other changes, required the inclusion of all payments of any kind or from any source (including salary, retirement or annuity payments, or similar income, which has been waived), and permitted the exclusion of donations from public or private relief or welfare organizations, payments under policies of United States Government life insurance or National Service Life Insurance, and payments of servicemen's indemnity, lump sum death payments, payments to an individual under public or private retirement, annuity, endowment, or similar plans or programs equal to his contributions thereto, amounts equal to amounts paid by a widow or child for the veteran's just debts, expenses of his last illness, and expenses of his burial to the extent such expenses are not reimbursed under chapter 23 of this title, and proceeds of life insurance policies.

EFFECTIVE DATE OF 1975 AMENDMENTS

Sections 101 and 106 of Pub. L. 94-169 provided in part that the amendment of subsec. (a)(16) of this section by section 101(2)(A) of Pub. L. 94-169, adding "and" following "as amended;", and amendment by section 106(7) of Pub. L. 94-169, substituting "such employee's" for "his", is effective Jan. 1, 1976.

Section 106 of Pub. L. 94-169 provided in part that the amendments of subsecs. (a)(7), (9), (14), and (c) by section 106 of Pub. L. 94-169 are effective Jan. 1, 1976.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-198 effective Jan. 1, 1972, see section 6 of Pub. L. 92-198, set out as an Effective Date of 1971 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-588 effective Jan. 1, 1971, see section 10(a) of Pub. L. 91-588, set out as an Effective Date of 1970 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 11 of Pub. L. 88-664 provided that:

"(a) Except as otherwise provided herein, this Act [which amended sections 502, 503 (by adding pars. (9) to (13), 506, 521, 541, 542, 612, and 3104 of this title and enacted provisions set out as a note under section 521 of this title] shall take effect on January 1, 1965.

"(b) The amendment to paragraph (6) of section 503, title 38, United States Code [par. (6) of this section], shall not apply to any individual receiving pension on December 31, 1964, under chapter 15 of said title, or subsequently determined entitled to such pension for said day, until his contributions have been recouped under the provision of that paragraph [(6)] in effect on December 31, 1964."

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-268 effective on Oct. 1, 1961, see section 3 of Pub. L. 87-268, set out as an Effective Date of 1961 Amendment note under section 412 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-211 effective July 1, 1960, see section 10 of Pub. L. 86-211, set out as an Effective Date note under section 506 of this title.

§ 504. Persons heretofore having a pensionable status

The pension benefits of subchapters II and III of this chapter shall, notwithstanding the service requirements of such subchapters, be granted to persons heretofore recognized by law as having a pensionable status.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1134.)

§ 505. Payment of pension during confinement in penal institutions

(a) No pension under public or private laws administered by the Veterans' Administration shall be paid to or for an individual who has been imprisoned in a Federal, State, or local penal institution as a result of conviction of a felony or misdemeanor for any part of the period beginning sixty-one days after such individual's imprisonment begins and ending when such individual's imprisonment ends.

(b) Where any veteran is disqualified for pension for any period solely by reason of subsection (a) of this section, the Administrator may apportion and pay to such veteran's spouse or children the pension which such veteran would receive for that period but for this section.

(c) Where any surviving spouse or child of a veteran is disqualified for pension for any period solely by reason of subsection (a) of this section, the Administrator may (1) if the surviving spouse is so disqualified, pay to the child, or children, the pension which would be payable if there were no such surviving spouse or (2) if a child is so disqualified, pay to the surviving spouse or other children, as applicable, the pension which would be payable if there were no such child.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1134; Pub. L. 94-169, title I, § 106(9)-(11), Dec. 23, 1975, 89 Stat. 1017.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-169, § 106(9), substituted "such individual's" for "his" wherever appearing therein.

Subsec. (b). Pub. L. 94-169, § 106(10), substituted "such veteran's spouse" for "his wife".

Subsec. (c). Pub. L. 94-169, § 106(11), substituted "surviving spouse" for "widow" wherever appearing therein.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94-169 provided in part that the amendment by Pub. L. 94-169 is effective Jan. 1, 1976.

§ 506. Resource reports and overpayment adjustments.

(a) As a condition of granting or continuing pension under sections 521, 541, or 542 of this title, the Administrator—

(1) may require from any person applying for, or in receipt of, pension thereunder such information, proofs, or evidence as the Administrator desires in order to determine the annual income and the corpus of the estate of such person;

(2) shall require that any such person, other than a child or a person who has attained seventy-two years of age and has been paid pension thereunder during two consecutive calendar years, file each year with the Veterans' Administration (on the form prescribed by the Administrator) a report showing the total income which such person received during the preceding year, the corpus of such person's estate at the end of that year, and his estimate for the then current year of the total income such person expects to receive and of any expected increase in the corpus of such person's estate; and

(3) shall require that any such person promptly file a revised report whenever there is a material change in such person's estimated annual income or a material change in such person's estimate of the corpus of such person's estate.

(b) If there is an overpayment of pension under section 521, 541, or 542 of this title, the amount thereof shall be deducted (unless waived) from any future payments made thereunder to the person concerned.

(Added Pub. L. 86-211, § 2(b), Aug. 29, 1959, 73 Stat. 432, and amended Pub. L. 88-664, § 2, Oct. 13, 1964, 78 Stat. 1094; Pub. L. 91-588, § 6, Dec. 24, 1970, 84 Stat. 1584; Pub. L. 94-169, title I, § 106(12)-(14), Dec. 23, 1975, 89 Stat. 1017.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-169 substituted "the Administrator" for "he" in par. (1), "the Administrator" for "him", "such person" for "he" and "such person's" for "his" wherever appearing therein, in par. (2), and "such person's" for "his" wherever appearing therein, in par. (3).

1970—Subsec. (a)(2). Pub. L. 91-588 exempted from filing requirements of this section any person who has attained 72 years of age and has been paid a pension under sections 521, 541, or 542 of this title during two consecutive calendar years.

1964—Subsec. (a)(2). Pub. L. 88-664 inserted ", other than a child," following "person".

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94-169 provided in part that the amendment by Pub. L. 94-169 is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-588 effective Jan. 1, 1972, see section 10(b) of Pub. L. 91-588, set out as an Effective Date of 1970 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-664 effective Jan. 1, 1965, see section 11 of Pub. L. 88-664, set out as an Effective Date of 1964 Amendment note under section 503 of this title.

EFFECTIVE DATE

Section 10 of Pub. L. 86-211 provided that: "This Act [enacting this section and section 617 of this title, amending sections 503, 521, 522, 541 to 543, and 3203 of this title, section 948 of former Title 5, Executive Departments and Government Officers and Employees, section 1441 of Title 10, Armed Forces, and section 228s-1 of Title 45, Railroads] shall take effect on July 1, 1960."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 507 of this title.

§ 507. Disappearance

Where a veteran receiving pension under subchapter II of this chapter disappears, the Administrator may pay the pension otherwise payable to such veteran's spouse and children. In applying the provisions of this section, the Administrator may presume, without reports pursuant to section 506(a) of this title, that the status of the veteran at the time of disappearance, with respect to permanent and total disability, income, and net worth, continues unchanged. Payments made to a spouse or child under this section shall not exceed the amount to which each would be entitled if the veteran died of a non-service-connected disability.

(Added Pub. L. 89-467, § 1(a), June 22, 1966, 80 Stat. 218, and amended Pub. L. 94-169, title I, § 106(15), Dec. 23, 1975, 89 Stat. 1017.)

AMENDMENTS

1975—Pub. L. 94-169 struck out "in his discretion" following "Administrator", substituted "payable to such veteran's spouse" for "payable to his wife," and "made to a spouse" for "made to a wife".

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94-169 provided in part that the amendment by Pub. L. 94-169 is effective Jan. 1, 1976.

SUBCHAPTER II—VETERANS' PENSIONS

SERVICE PENSION

[§ 510. Repealed. Pub. L. 94-169, title I, § 101(2)(F), Dec. 23, 1975, 89 Stat. 1014]

Section, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1135, provided for a monthly pension for persons who served in the military or naval forces of the Confederate States of America.

EFFECTIVE DATE OF REPEAL

Section 101 of Pub. L. 94-169 provided in part that repeal of section is effective Jan. 1, 1976.

§ 511. Indian War veterans

(a) The Administrator shall pay to each veteran of the Indian Wars who meets the service requirements of this section a pension at the following monthly rate:

(1) $101.59; or

(2) $135.45 if the veteran is in need of regular aid and attendance.

(b) A veteran meets the service requirements of this section if such veteran served in one of the Indian Wars—

(1) for thirty days or more; or

(2) for the duration of such Indian War;

in any military organization, whether or not such service was the result of regular muster into the service of the United States, if such service was under the authority or by the approval of the United States or any State.

(c)(1) Any veteran eligible for pension under this section shall, if such veteran so elects, be paid pension at the rates prescribed by section 521 of this title, and under the conditions (other than the service requirements) applicable to pension paid under that section to veterans of World War I. If pension is paid pursuant to such an election, the election shall be irrevocable, except as provided in paragraph (2).

(2) The Administrator shall pay each month to each veteran of the Indian Wars who is receiving, or entitled to receive, pension based on a need of regular aid and attendance, whichever amount is greater (A) that provided by paragraph (2) of subsection (a) of this section, or (B) that which is payable to the veteran under section 521 of this title if such veteran has elected, or would be payable if such veteran were to elect, to receive pension under such section pursuant to paragraph (1) of this subsection. Each change in the amount of pension payment required by this paragraph shall be effective as of the first day of the month during which the facts of the particular case warrant such change, and shall be made without specific application therefor.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1135; Pub. L. 86–670, § 1, July 14, 1960, 74 Stat. 545; Pub. L. 90–77, title I, § 111(a), Aug. 31, 1967, 81 Stat. 181; Pub. L. 94–169, title I, § 106(16), Dec. 23, 1975, 89 Stat. 1017.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 94–169 substituted "such veteran" for "he".

Subsec. (c). Pub. L. 94–169 substituted "such veteran" for "he" wherever appearing therein.

1967—Subsec. (c). Pub. L. 90–77 designated existing provisions as par. (1), inserted therein, "except as provided in paragraph (2)", and added par. (2).

1960—Subsec. (c). Pub. L. 86–670 added subsec. (c).

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94–169 provided in part that the amendment by Pub. L. 94–169 is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 3 of Pub. L. 86–670 provided that: "This Act [adding subsec. (c) of this section and subsec. (a)(3) of section 512 of this title] shall take effect on the first day of the second calendar month which begins after the date of enactment of this Act [July 14, 1960]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 534, 535, of this title.

§ 512. Spanish-American War veterans

(a)(1) The Administrator shall pay to each veteran of the Spanish-American War who meets the service requirements of this subsection a pension at the following monthly rate:

(A) $101.59; or

(B) $135.45 if the veteran is in need of regular aid and attendance.

(2) A veteran meets the service requirements of this subsection if such veteran served in the active military or naval service—

(A) for ninety days or more during the Spanish-American War;

(B) during the Spanish-American War and was discharged or released from such service for a service-connected disability; or

(C) for a period of ninety consecutive days or more and such period began or ended during the Spanish-American War.

(3)(A) Any veteran eligible for pension under this subsection shall, if such veteran so elects, be paid pension at the rates prescribed by section 521 of this title, and under the conditions (other than the service requirements) applicable to pension paid under that section to veterans of World War I. If pension is paid pursuant to such an election, the election shall be irrevocable, except as provided in subparagraph (B).

(B) The Administrator shall pay each month to each Spanish-American War veteran who is receiving, or entitled to receive, pension based on a need of regular aid and attendance, whichever amount is greater (i) that provided by subparagraph (B) of subsection (a)(1) of this section, or (ii) that which is payable to the veteran under section 521 of this title if such veteran has elected, or would be payable if such veteran were to elect, to receive pension under such section pursuant to subparagraph (A) of this paragraph. Each change in the amount of pension payment required by this subparagraph shall be effective as of the first day of the month during which the facts of the particular case warrant such change, and shall be made without specific application therefor.

(b)(1) The Administrator shall pay to each veteran of the Spanish-American War who does not meet the service requirements of subsection (a), but who meets the service requirements of this subsection, a pension at the following monthly rate:

(A) $67.73; or

(B) $88.04 if the veteran is in need of regular aid and attendance.

(2) A veteran meets the service requirements of this subsection if such veteran served in the active military or naval service—

(A) for seventy days or more during the Spanish-American War; or

(B) for a period of seventy consecutive days or more and such period began or ended during the Spanish-American War.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1135; Pub. L. 86–670, § 2, July 14, 1960, 74 Stat. 545; Pub. L. 90–77, title I, § 111(b), Aug. 31, 1967, 81 Stat. 181; Pub. L. 94–169, title I, § 106(17), Dec. 23, 1975, 89 Stat. 1017.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-169 substituted "such veteran" for "he" wherever appearing therein.

Subsec. (b). Pub. L. 94-169 substituted "such veteran" for "he".

1967—Subsec. (a)(3). Pub. L. 90-77 designated existing provisions as subpar. (A), inserted therein, "except as provided in subparagraph (B)", and added subpar. (B).

1960—Subsec. (a). Pub. L. 86-670 added cl. (3).

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94-169 provided in part that the amendment by Pub. L. 94-169 is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Subsec. (a)(3) of this section effective on the first day of the second calendar month which begins after July 14, 1960, see section 3 of Pub. L. 86-670, set out as an Effective Date of 1960 Amendment note under section 511 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 536, 537 of this title.

NON-SERVICE-CONNECTED DISABILITY PENSION

§ 521. Veterans of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era

(a) The Administrator shall pay to each veteran of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era, who meets the service requirements of this section, and who is permanently and totally disabled from non-service-connected disability not the result of the veteran's willful misconduct or vicious habits, pension at the rate prescribed by this section.

(b)(1) If the veteran is unmarried (or married but not living with and not reasonably contributing to the support of such veteran's spouse) and has no child, pension shall be paid to the veteran according to the following formula:

The monthly rate of pension shall be $185 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$300
.03	$300	500
.04	500	700
.05	700	900
.06	900	1,500
.07	1,500	1,800
.08	1,800	3,540

(2) In no case may the amount of pension payable to any veteran under this subsection be less than $5 monthly.

(3) In no case may pension be paid under this subsection to any veteran if the annual income of such veteran exceeds $3,540.

(c)(1) If the veteran is married and living with or reasonably contributing to the support of such veteran's spouse, or has a child or children, pension shall be paid to the veteran according to the following formula:

The monthly rate of pension for a veteran shall be—$199 if he or she has one dependent; $204 if he or she has two dependents; and $209 if he or she has three or more dependents; reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$500
.02	$500	700
.03	700	1,100
.04	1,100	2,400
.05	2,400	3,100
.06	3,100	3,500
.07	3,500	3,700
.08	3,700	4,760

(2) In no case may the amount of pension payable to any veteran under this subsection be less than $5 monthly.

(3) In no case may pension be paid under this subsection to any veteran if the annual income of such veteran exceeds $4,760.

(d)(1) If the veteran is in need of regular aid and attendance, the monthly rate payable to such veteran under subsection (b) or (c) shall be increased by $155.

(2) In any case in which—

(A) any veteran is denied pension under subsection (b) or (c) of this section solely for the reason that his annual income exceeds the maximum income limitation set forth in such subsection, or

(B) payment of pension to any veteran under such subsection (b) or (c) is discontinued for such reason,

and such veteran is in need of aid and attendance, such veteran shall be entitled to a monthly rate of $155 reduced by 16.6 per centum for each $100, or portion thereof, by which the veteran's annual income exceeds the applicable maximum annual income limitation; but no monthly rate shall be payable under this paragraph if the veteran's annual income exceeds such limitation by more than $500.

(e) If the veteran has a disability rated as permanent and total, and (1) has additional liability or disabilities independently ratable at 60 per centum or more, or, (2) by reason of such veteran's disability or disabilities, is permanently housebound but does not qualify for the aid and attendance rate under subsection (d) of this section, the monthly rate payable to such veteran under subsection (b) or (c) shall be increased by $57.

(f) For the purposes of this section—

(1) in determining annual income, where a veteran is living with his spouse, all income of the spouse which is reasonably available to or for the veteran in excess of whichever is the greater, $1,200 or the total earned income of the spouse, shall be considered as the income of the veteran, unless in the judgment of the

Administrator to do so would work a hardship upon the veteran;

(2) a veteran shall be considered as living with a spouse, even though they reside apart, unless they are estranged.

(g) A veteran meets the service requirements of this section if he served in the active military, naval, or air service—

(1) for ninety days or more during either the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era;

(2) during the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era, and was discharged or released from such service for a service-connected disability;

(3) for a period of ninety consecutive days or more and such period ended during the Mexican border period or World War I, or began or ended during World War II, the Korean conflict, or the Vietnam era; or

(4) for an aggregate of ninety days or more in two or more separate periods of service during more than one period of war.

(h) The rate of pension payable to any veteran receiving benefits under subsections (b), (c), (d), and (e) of this section shall be increased by 25 per centum beginning on the first day of the month during which the veteran attains age 78.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1136; Pub. L. 86-211, § 3(a), Aug. 29, 1959, 73 Stat. 433; Pub. L. 87-101, § 1, July 21, 1961, 75 Stat. 218; Pub. L. 88-664, §§ 3(a), (b), 5, 6(a), 7, Oct. 13, 1964, 78 Stat. 1094, 1095; Pub. L. 90-77, title I, § 104, title II, § 202(a)-(c), Aug. 31, 1967, 81 Stat. 179, 182; Pub. L. 90-275, § 1(a), (b), Mar. 28, 1968, 82 Stat. 64, 65; Pub. L. 91-588, §§ 1(a), (b), 9(c), Dec. 24, 1970, 84 Stat. 1580, 1583, 1584; Pub. L. 92-198, §§ 1(a), (b), 5(b), Dec. 15, 1971, 85 Stat. 663, 664; Pub. L. 93-177, § 1(a), (b), Dec. 6, 1973, 87 Stat. 694; Pub. L. 93-527, § 2, Dec. 21, 1974, 88 Stat. 1702; Pub. L. 94-169, title I, §§ 102, 106(18), Dec. 23, 1975, 89 Stat. 1014, 1018; Pub. L. 94-432, title II, § 202, Sept. 30, 1976, 90 Stat. 1369.)

AMENDMENTS

1976—Subsec. (b)(1). Pub. L. 94-432, § 202(1), increased the monthly rate of pension from $173 to $185 and substituted $700 to $900 for $700 to $1,200, $900 to $1,500 for $1,200 to $1,700, $1,500 to $1,800 for $1,700 to $2,000, and $1,800 to $3,540 for $2,000 to $3,300.

Subsec. (b)(3). Pub. L. 94-432, § 202(2), substituted "$3,540" for "$3,300".

Subsec. (c)(1). Pub. L. 94-432, § 202(3), increased the monthly rate of pension by $13 from $186 to $199, from $191 to $204, and from $196 to $209, of a veteran with 1, 2, and 3 dependents, substituting "he or she" for "such veteran" in three instances, substituted $700 to $1100 for $700 to $1,300, $1,100 to $2,400 for $1,300 to $2,800, $2,400 to $3,100 for $2,800 to $3,200, $3,100 to $3,500 for $3,200 to $3,800, and $3,700 to $4,760 for $3,800 to $4,500, and inserted ".07" ranging from $3,500 to $3,700.

Subsec. (c)(3). Pub. L. 94-432, § 202(4), substituted "$4,760" for "$4,500".

Subsec. (d). Pub. L. 94-432, § 202(5), designated existing provisions as par. (1), substituted therein "$155" for "$133" and added par. (2).

Subsec. (e). Pub. L. 94-432, § 202(6), substituted "$57" for "$53".

Subsec. (h). Pub. L. 94-432, § 202(7), added subsec. (h).

1975—Subsec. (b). Pub. L. 94-169, § 102(1), increased, effective for the period beginning Jan. 1, 1976, and ending Sept. 30, 1976, the monthly rate of pension from $160 to $173, substituted $500 to $700 for $500 to $900, $700 to $1200 for $900 to $1500, $1200 to $1700 for $1500 to $1900, $1700 to $2000 for $1900 to $2300, $2000 to $3300 for $2300 to $3000 the minimum and maximum income ranges for which the pension rate will be reduced by 4, 5, 6, 7 and 8 cents per dollar, respectively, and increased from $3000 to $3300 the maximum income in excess of which no pension shall be paid.

Subsec. (c). Pub. L. 94-169, § 102(1), increased, effective for the period beginning Jan. 1, 1976, and ending Sept. 30, 1976, from $172 to $186, from $177 to $191 and from $182 to $196 the rate of pension of a veteran with 1, 2 and 3 dependants, respectively, substituted $700 to $1300 for $700 to $1800, $1300 to $2800 for $1800 to $3000, $2800 to $3200 for $3000 to $3500, $3200 to $3800 for $3500 to $3800, and $3800 to $4500 for $4000 to $4200 the minimum and maximum income ranges for which the pension rate will be reduced by 3, 4, 5, 6 and 8 cents per dollar, respectively, struck out the income range of $3800 to $4000 for which the reduction rate is 7 cents per dollar, increased from $4200 to $4500 the income in excess of which no pension shall be paid, and added provision that in no case may the amount of pension be less than $5 monthly.

Subsec. (d). Pub. L. 94-169, § 102(2), substituted, effective for the period beginning Jan. 1, 1976, and ending Sept. 30, 1976, "such veteran" for "him" and "$133" for "$123".

Subsec. (e). Pub. L. 94-169, § 102(3), substituted, effective for the period beginning Jan. 1, 1976, and ending Sept. 30, 1976, "such veteran's" for "his", "such veteran" for "him" and "$53" for "$49".

Subsec. (g). Pub. L. 94-169, § 106(18), substituted "such veteran" for "he".

1974—Subsec. (b). Pub. L. 93-527, § 2(1), substituted "$160" for "$143", "$500" for "$800" wherever appearing therein; "$900" for "$1300" wherever appearing therein; "$1500" for "$1600" wherever appearing therein; "$1900" for "$2200" wherever appearing therein; "$2300" for "$2500" wherever appearing therein; and "$3000" for "$2600" wherever appearing therein; and added the provision that in no event should the monthly rate of pension be less than $5.00.

Subsec. (c). Pub. L. 93-527, § 2(2), substituted "$172" for "$154", "$177" for "$159", "$182" for "$164", "$700" for "$800" wherever appearing herein; "$1800" for "$2600" wherever appearing therein; "$3000" for "$3200" wherever appearing therein; "$3500" for "$3700" wherever appearing therein, and added the provisions for the reduction by 7 cents for each dollar of annual income in excess of $3800 up to and including $4000, and reduction by 8 cents for each dollar of annual income in excess of $4000 up to and including $4200, and raised the maximum income from $3800 to $4200.

Subsec. (d). Pub. L. 93-527, § 2(3), substituted "$123" for "$110".

Subsec. (e). Pub. L. 93-527, § 2(4), substituted "$49" for "$44"

1973—Subsec. (b). Pub. L. 93-177, § 1(a), substituted "$143" for "$130", "$800" for "$1,000", "$1,300" for "$1,500", "$1,600" for "$1,800", and "$2,500" for "$2,600" in the existing provisions and added provision for a reduction of 8 cents in the monthly rate for each $1 of annual income in excess of $2,500 up to and including $2,600.

Subsec. (c). Pub. L. 93-177, § 1(b), substituted "$154" for "$140", "$159" for "$145", "$164" for "$150", "$800" for "$900", "$2,600" for "$3,200", and "$3,700" for "$3,800" in the existing provisions and added provisions for a reduction of 4 cents in the monthly rate for each $1 of annual income in excess of $2,600 up to and including $3,200 and for a reduction of 6 cents in the monthly rate for each $1 of annual income in excess of $3,700 up to and including $3,800.

1971—Subsec. (b). Pub. L. 92-198, § 1(a), substituted formula for computing monthly pension rates of

single veteran providing for a maximum monthly pension for each group within designated income category and for computing each individual's monthly benefit rate by reducing the maximum rate by a specified number of cents for each dollar by which the minimum income limitation for that group is exceeded, for table setting out the income and pension rates, and raised the maximum income from $2300 to $2600.

Subsec. (c). Pub. L. 92-198, § 1(b), substituted formula for computing monthly pension rates of veteran with dependents by providing for maximum monthly pension for each group within designated income category depending on the number of dependents and for computing each individual's monthly benefit rate by reducing the maximum rate by a specified number of cents for each dollar by which the minimum income limitation for that group is exceeded, for table setting out the income and pension rates, and raised the maximum income limit from $3500 to $3800.

Subsec. (g)(3). Pub. L. 92-198, § 5(b), added reference to Mexican border period.

1970—Pub. L. 91-588, § 9(c)(3), added reference to the Mexican border period in the section catchline.

Subsec. (a). Pub. L. 91-588, § 9(c)(1), added reference to the Mexican border period.

Subsec. (b). Pub. L. 91-588, § 1(a), provided new annual income limits to measure monthly pension rates of single veteran by adding minimum income limits of $2,000, $2,100 and $2,200 with maximum limits of $2,100, $2,200 and $2,300 for monthly benefits of $45, $37 and $29, respectively, and within existing annual income limits from a maximum of $300 to a maximum of $2,000, as well as the in-between limits set out in one-hundred dollar increments, the applicable monthly benefit for each limit was amended, respectively by substituting in column II "121" for "$110", "119" for "108", "117" for "106", "115" for "104", "112" for "100", "108" for "96", "104" for "92", "100" for "88", "96" for "84", "92" for "79", "88" for "75", "84" for "69" "79" for "63" "75" for "57", "69" for "51", "63" for "45", "57" for "37", and "51" for "29".

Subsec. (c). Pub. L. 91-588, § 1(b), provided new annual income limits to measure monthly pension rates of veteran with dependents by adding minimum income limits of $3,200, $3,300, and $3,400 with maximum limits of $3,300, $3,400, and $3,500 for monthly benefits of $50, and within existing annual income limits from a maximum of $500 to a maximum of $3,200, as well as in-between limits set out in one-hundred dollar increments, the applicable monthly benefits for each limit was amended, respectively, by substituting in column II (one dependent) "$132" for "$120", "130" for "118", "128" for "116", "126" for "114", "124" for "112", "122" for "109", in column III (two dependents) "$137" for "$125", "135" for "123, "133" for "121", "131" for "119", "129" for "117", "127" for "114", in column IV (three or more dependents) "$142" for "$130", "140" for "128", "138" for "126", "136" for "124", "134" for "122", "132" for "119", and in columns II, III, and IV (for any number of dependents) "119" for "107", "116" for "105", "113" for "103", "110" for "101", "107" for "99", "104" for "96", "101" for "93" "99" for "90", "96" for "87", "93" for "84", "90" for "81", "87" for "78", "84" for "75", "81" for "72", "78" for "69", "75" for "66", "72" for "62", "69" for "58", "66" for "54", "62" for "50", "58" for "42", and "54" for "34".

Subsec. (d). Pub. L. 91-588, § 3(b)(1), substituted "$110" for "$100".

Subsec. (e). Pub. L. 91-588, § 3(b)(2), substituted "44" for "$40".

Subsec. (g)(1), (2). Pub. L. 91-588, § 9(c)(2), added reference to the Mexican border period.

1968—Subsec. (b). Pub. L. 90-275, § 1(a), in providing new annual income limits to measure monthly pension rates of single veteran, substituted minimum income limit of $300 for monthly benefit of $110 for former $600 limit for monthly benefit of $104, maximum income limit of $2,000 for monthly benefit of $29 for former $1,800 limit for monthly benefit of $45, and sixteen other in-between limits in one hundred dollar increments from more than $300 to less than $1,900 for monthly benefits of $108-37 for former in-between limit of more than $600 but less than $1,200 for monthly benefit of $79.

Subsec. (c). Pub. L. 90-275, § 1(b), in providing new annual income limits to measure monthly pension rates of veteran with dependents, substituted minimum income limit of $500 for monthly benefit of $120 (one dependent), $125 (two dependents), and $130 (three or more dependents) for former $1,000 limit for monthly benefit of $109 (one dependent), $114 (two dependents), and $119 (three or more dependents), maximum income limit of $3,200 for monthly benefit of $34 (for any number of dependents) for former $3,000 limit for monthly benefit of $50 (for any number of dependents), and twenty-six other in-between limits in one hundred dollar increments from more than $500 to less than $3,100 for monthly benefits of $118 to 42 (one dependent), $123 to 42 (two dependents), and $128 to 42 (three or more dependents) for former in-between limit of more than $1,000 but less than $2,000 for monthly benefit of $84 (for any number of dependents).

1967—Pub. L. 90-77, § 202(c), included reference to Vietnam era in the catchline.

Subsec. (a). Pub. L. 90-77, § 202(a), included reference to Vietnam era.

Subsec. (b). Pub. L. 90-77, § 104(a), increased the monthly pension rate in column II from $100, $75, and $43 to $104, $79,and $45 respectively.

Subsec. (c). Pub. L. 90-77, § 104(b), increased the monthly pension rate in column II from $105, $80, and $48 to $109, $84, and $50; column III from $110, $80, and $48 to $114, $84, and $50; and column IV from $115, $80, and $48 to $119, $84, and $50, respectively.

Subsec. (e). Pub. L. 90-77, § 104(c), substituted "$40" for "$35".

Subsec. (g). Pub. L. 90-77, § 202(b), included references to Vietnam era in pars. (1) to (3).

1964—Subsec. (b). Pub. L. 88-664, § 3(a), increased the monthly pension rate in column II from $85, $70, and $40 to $100, $75, and $43, respectively.

Subsec. (c). Pub. L. 88-664, § 3(b), increased the monthly pension rate in column II from $90, $75, and $45 to $105, $80, and $48; column III from $95, $75, and $45 to $110, $80, and $48; and column IV from $100, $75, and $45 to $115, $80, and $48, respectively.

Subsec. (d). Pub. L. 88-664, § 5, increased the additional monthly rate of veterans in need of aid and attendance from $70 to $100.

Subsec. (e). Pub. L. 88-664, § 6(a), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 88-664, §§ 6(a), 7, redesignated former subsec. (e) as (f) and substituted in par. (1) the words "in excess of whichever is the greater, $1,200 or the total earned income of the spouse," for "except $1,200 of such income", respectively. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 88-664, § 6(a), redesignated former subsec. (f) as (g).

1961—Subsec. (f)(4). Pub. L. 87-101 added par. (4).

1959—Subsec. (a). Pub. L. 86-211, § 3(a)(2), eliminated provisions that prescribed the amount of monthly pension payable. See subsecs. (b) to (d) of this section.

Subsecs. (b) to (e). Pub. L. 86-211, § 3(a)(3), added subsecs. (b) to (e).

Subsec. (f). Pub. L. 86-211, § 3(a)(1), redesignated former subsec. (b) as (f).

Effective Date of 1976 Amendment

Section 405 of Pub. L. 94-432 provided that:

"(a) The provisions of this Act [enacting section 3006, amending section 102, enacting provisions set out as a note under section 501, and amending note provisions under sections 521 and 544 of this title], other than titles II and III and section 401 [as provided for in subsec. (b)], shall take effect on the date of the enactment of this Act [Sept. 30, 1976].

"(b) Titles II [amending sections 502, 521, 541, 542, and 544 of this title, and amending note provisions

under section 521 of this title] and III [amending section 415 of this title] and section 401 of this Act [amending section 322 of this title] shall take effect January 1, 1977."

EFFECTIVE DATE OF 1975 AMENDMENT

Section 102 of Pub. L. 94-169, as amended by Pub. L. 94-432, title I, § 101, Sept. 30, 1976, 90 Stat. 1369, provided in part that amendment of subsecs. (b) to (e) of this section by section 102 of Pub. L. 94-169 was effective Jan. 1, 1976.

Section 106 of Pub. L. 94-169 provided in part that amendment of subsec. (g) of this section by section 106 of Pub. L. 94-169 was effective Jan. 1, 1976.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 10 of Pub. L. 93-527 provided that: "This Act [amending sections 103, 415, 521, 541, 542, 544, and 3010 of this title, and enacting the provisions set out as notes under this section and section 501 of this title] shall take effect on January 1, 1975."

EFFECTIVE DATE OF 1973 AMENDMENT

Section 8 of Pub. L. 93-177 provided that: "This Act [amending sections 415, 521, 541, 542, 3010, and 3203 of this title and enacting provisions set out as a note under section 3010 of this title] shall take effect on January 1, 1974."

EFFECTIVE DATE OF 1971 AMENDMENT

Section 6 of Pub. L. 92-198 provided that: "This Act [amending sections 101, 503, 521, 541, 542, and 3012 of this title and provision set out as a note under this section] shall take effect on January 1, 1972."

EFFECTIVE DATE OF 1970 AMENDMENT

Section 10 of Pub. L. 91-588 provided that:

"(a) Sections 1, 2(a), (b), and (c), 3, 4, 5, 6, 7, 8, and 9 [amending sections 101, 322, 411, 415, 503, 521, 541, 542, 544, 612, and 901 of this title, and section 1441 of Title 10, Armed Forces, and amending provisions set out at a note under this section] shall take effect on January 1, 1971.

"(b) Sections 2(d) and 6 [amending sections 415 and 506 of this title] shall take effect on January 1, 1972."

In view of the similarity of subject matter covered by amendments made by sections 2(d) and 6 of Pub. L. 91-588, the effective date for the amendment made by section 6 was probably intended by Congress to be Jan. 1, 1972, as called for in subsec. (b) of section 10 of Pub. L. 91-588, rather than Jan. 1, 1971, as called for in subsec. (a) of that section.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 6 of Pub. L. 90-275 provided that:

"(a) The first section [amending subsecs. (b) and (c) of this section and section 541(b), (c) of this title] and sections 2 and 4 of this Act [amending section 415(b)(1), (c), (d) of this title and enacting provisions set out as a note under this section] shall take effect on January 1, 1969.

"(b) Sections 3 and 5 of this Act [set out as a note under this section and amending section 3012(b)(4) of this title, respectively] shall take effect on the first day of the first calendar month following the month of initial payment of increases in monthly insurance benefits provided by the Social Security Amendments of 1967 [see Short Title note under section 302 of Title 42, the Public Health and Welfare]."

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-664 and provisions of section 10 of Pub. L. 88-664, set out hereunder under Savings Provisions heading, effective Jan. 1, 1965, see section 11 of Pub. L. 88-664, set out as an Effective Date of 1964 Amendment note under section 503 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 2 of Pub. L. 87-101 provided that: "Pension shall not be paid for any period prior to the effective date of this Act [July 21, 1961] to any person whose eligibility for pension is established solely by virtue of this Act [adding subsec. (f)(4) of this section]."

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-211 effective July 1, 1960, see section 10 of Pub. L. 86-211, set out as an Effective Date note under section 506 of this title.

SAVINGS PROVISIONS

Section 9 of Pub. L. 86-211 provided that:

"(a) Any claim for pension which is pending in the Veterans' Administration on June 30, 1960, or any claim for death pension filed thereafter within one year from the date of death of a veteran which occurred prior to July 1, 1960, shall be adjudicated under Title 38, United States Code, in effect on June 30, 1960, with respect to the period before July 1, 1960, and, except as provided in subsection (c), under such title, as amended by this Act [enacting sections 506 and 617 of this title, and amending sections 503, 521, 522, 541 to 543, and 3203 of this title], thereafter.

"(b) Nothing in this Act [enacting sections 506 and 617 of this title, amending sections 503, 521, 522, 541 to 543, and 3203 of this title, section 948 of former Title 5, Executive Departments and Government Officers and Employees, section 1441 of Title 10, Armed Forces, and section 288s-1 of Title 45, Railroads], shall affect the eligibility of any person receiving pension under Title 38, United States Code, on June 30, 1960, for pension under all applicable provisions of that title in effect on that date for such period or periods thereafter with respect to which he can qualify under such provisions. This subsection shall not apply in any case for any period after pension is granted, pursuant to application, under Title 38, United States Code, as amended by this Act.

"(c) Subsection (b) shall apply to those claims within the purview of subsection (a) in which it is determined that pension is payable for June 30, 1960."

PENSION, DEPENDENCY, AND INDEMNITY COMPENSATION; RELATION TO SOCIAL SECURITY AMENDMENTS OF 1967

Section 3 of Pub. L. 90-275 provided that:

"(a) If the monthly rate of pension or dependency and indemnity compensation payable to a person under title 38, United States Code, would be less, solely as a result of an increase in monthly insurance benefits provided by the Social Security Amendments of 1967 [see Short Title note under section 302 of Title 42, The Public Health and Welfare], than the monthly rate payable for the month immediately preceding the effective date of this Act [see Effective Date of 1968 Amendment note under this section], the Administrator of Veterans' Affairs shall pay the person as follows:

"(1) for the balance of calendar year 1968 and during calendar year 1969, at the prior monthly rate;

"(2) during the calendar year 1970, at the rate for the next $100 annual income limitation higher than the maximum annual income limitation corresponding to the prior monthly rate; and

"(3) during each successive calendar year, at the rate for the next $100 annual income limitation higher than the one applied for the preceding year, until the rate corresponding to actual countable income is reached.

"(b) Subsection (a) shall not apply for any period during which annual income of such person, exclusive of an increase in monthly insurance benefits provided by the Social Security Amendments of 1967 [see Short Title note under section 302 of Title 42], exceeds the

amount of annual income upon which was based the pension or dependency and indemnity compensation payable to the person immediately prior to receipt of the increase."

Provisions of section 3 of Pub. L. 90-275 effective on first day of first calendar month following month of initial payment of increases in monthly insurance benefits provided by Social Security Amendments of 1967 [see Short Title note under section 302 of Title 42], see section 6(b) of Pub. L. 90-275, set out as an Effective Date of 1968 Amendment note above.

INCOME RESTRICTIONS ON PENSIONS; EFFECTIVE DATES

Section 4 of Pub. L. 90-275, as amended by Pub. L. 91-588, § 5; Pub. L. 92-198, § 4; Pub. L. 93-527, § 6; Pub. L. 94-169, § 107; and Pub. L. 94-432, § 206, provided that: "The annual income limitations governing payment of pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 [set out in a Savings Provisions note above] hereafter shall be $3,100 and $4,460 instead of $2,900 and $4,200, respectively.

Section 4 of Pub. L. 90-275, as originally enacted, was eff. Jan. 1, 1969, pursuant to Pub. L. 90-275, § 6(a). Subsequent amendments to said section 4 by Pub. L. 91-588, Pub. L. 92-198, and Pub. L. 94-169 were effective Jan. 1, 1971, Jan. 1, 1972, and for a period beginning Jan. 1, 1976 and ending Sept. 30, 1976, respectively. Pub. L. 94-432, §§ 101, 405(b) amended said section 4 of Pub. L. 90-275 and section 107 of Pub. L. 94-169 to be effective Jan. 1, 1976 and Jan. 1, 1977, respectively.

AID AND ATTENDANCE ALLOWANCE FOR WIDOWS OF VETERANS OF ALL PERIODS OF WAR

Pub. L. 90-77, title I, § 108(c), Aug. 31, 1967, 81 Stat. 180, provided that: "If any widow is entitled to pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 [set out in a Savings Provisions note above] and is in need of regular aid and attendance, the monthly rate of pension payable to her shall be increased by $50."

PENSION FOR HOUSEBOUND VETERANS

Pub. L. 90-77, title I, § 110, Aug. 31, 1967, 81 Stat. 180, provided that: "The Administrator of Veterans' Affairs shall pay to a veteran who is entitled to pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 [set out in a Savings Provisions note above] and who—

"(1) has, in addition to a disability rated as permanent and total, additional disability or disabilities independently ratable at 60 per centum or more, or

"(2) by reason of his disability or disabilities, is permanently housebound but does not qualify for pension based on need of regular aid and attendance,

in lieu of the pension otherwise payable to him, a pension at the monthly rate of $100."

RETIREMENT INCOME EXCLUSION

Section 10 of Pub. L. 88-664 provided that: "In computing the income of persons whose pension eligibility is subject to the first sentence of section 9(b) of the Veterans' Pension Act of 1959 [set out in a Savings Provisions note above] there shall be excluded 10 per centum of the amount of payments received under public or private retirement, annuity, endowment or similar plans or programs."

CROSS REFERENCES

Limitations on pension payments to veterans furnished hospital treatment, institutional, or domiciliary care by the Veterans' Administration, see section 3203 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 506, 511, 512, 522, 523, 541, 542, 3203 of this title.

§ 522. Net worth limitation

The Administrator shall deny or discontinue payment of pension under section 521 of this title when the corpus of the veteran's estate is such that under all the circumstances, including consideration of the veteran's income, it is reasonable that some part of the corpus be consumed for the veteran's maintenance.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1136; Pub. L. 86-211, § 3(b), Aug. 29, 1959, 73 Stat. 434.)

AMENDMENTS

1959—Pub. L. 86-211 substituted provisions requiring the denial or discontinuance of payment of pension when the corpus of the veteran's estate is such that under all the circumstances, including consideration of the veteran's income, it is reasonable that some part of the corpus be consumed for the veteran's maintenance for provisions which prohibited the payment of a pension to any unmarried veteran whose annual income exceeds $1,400 or to any married veteran or any veteran with children whose annual income exceeds $2,700.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-211 effective July 1, 1960, see section 10 of Pub. L. 86-211, set out as an Effective Date note under section 521 of this title.

§ 523. Combination of ratings

(a) The Administrator shall provide that, for the purpose of determining whether or not a veteran is permanently and totally disabled, ratings for service-connected disabilities may be combined with ratings for non-service-connected disabilities.

(b) Where a veteran, by virtue of subsection (a), is found to be entitled to a pension under section 521 of this title, and is entitled to compensation for a service-connected disability, the Administrator shall pay such veteran the greater benefit.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1136; Pub. L. 94-169, title I, § 106(19), Dec. 23, 1975, 89 Stat. 1018.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 94-169 substituted "such veteran" for "him".

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94-169 provided in part that the amendment by Pub. L. 94-169 is effective Jan. 1, 1976.

SUBCHAPTER III—PENSIONS TO SURVIVING SPOUSES AND CHILDREN

AMENDMENTS

1975—Pub. L. 94-169, title I, § 101(2)(G), Dec. 23, 1975, 89 Stat. 1014, substituted "Surviving Spouses" for "Widows" in subchapter heading.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 504 of this title.

WARS BEFORE WORLD WAR I

[§ 531. Repealed. Pub. L. 94-169, title I, § 101(2)(F), Dec. 23, 1975, 89 Stat. 1014]

Section, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1137; Pub. L. 90-77, title I, § 105, Aug. 31, 1967, 81 Stat. 179,

provided for a monthly pension to widows of Mexican War veterans.

EFFECTIVE DATE OF REPEAL

Section 101 of Pub. L. 94-169 provided in part that repeal of section is effective Jan. 1, 1976.

§ 532. Surviving spouses of Civil War veterans

(a) The Administrator shall pay to the surviving spouse of each Civil War veteran who met the service requirements of this section a pension at the following monthly rate:

(1) $40.64 if such surviving spouse is below seventy years of age; or

(2) $70 if such surviving spouse is seventy years of age or older;

unless such surviving spouse was the spouse of the veteran during such veteran's service in the Civil War, in which case the monthly rate shall be $75.

(b) If there is a child of the veteran, the rate of pension paid to the surviving spouse under subsection (a) shall be increased by $8.13 per month for each such child.

(c) A veteran met the service requirements of this section if such veteran served for ninety days or more in the active military or naval service during the Civil War, as heretofore defined under public laws administered by the Veterans' Administration, or if such veteran was discharged or released from such service upon a surgeon's certificate of disability.

(d) No pension shall be paid to a surviving spouse of a veteran under this section unless such surviving spouse was married to such veteran—

(1) before June 27, 1905; or

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1137; Pub. L. 90-77, title I, §§ 101(a), 105, Aug. 31, 1967, 81 Stat. 178, 179; Pub. L. 94-169, title I, § 106(20)-(23), Dec. 23, 1975, 89 Stat. 1018.)

AMENDMENTS

1975—Pub. L. 94-169, § 106(23), substituted "Surviving spouses" for "Widows" in section catchline.

Subsec. (a). Pub. L. 94-169, § 106(20), substituted "pay to the surviving spouse" for "pay to the widow", "such surviving spouse" for "she" wherever appearing therein, "was the spouse" for "was the wife" and "such veteran's" for "his".

Subsec. (b). Pub. L. 94-169, § 106(21), substituted "surviving spouse" for "widow".

Subsec. (c). Pub. L. 94-169, § 106(21) substituted "such veteran" for "he" wherever appearing therein.

Subsec. (d). Pub. L. 94-169, § 106(22), substituted "surviving spouse", "such surviving spouse" and "such veteran" for "widow", "she" and "him", respectively.

1967—Subsec. (a)(2). Pub. L. 90-77, § 105, substituted "$70" for "$65".

Subsec. (d). Pub. L. 90-77, § 101(a), qualified widow of a veteran for a pension by reducing in par. (2) the requisite marriage period from five years to one year and by making her eligible for benefits in par. (3) in event of antenupital birth.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94-169 provided in part that the amendment by Pub. L. 94-169 is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 533 of this title.

§ 533. Children of Civil War veterans

Whenever there is no surviving spouse entitled to pension under section 532 of this title, the Administrator shall pay to the children of each Civil War veteran who met the service requirements of section 532 of this title a pension at the monthly rate of $74.13 for one child, plus $8.13 for each additional child, with the total amount equally divided.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1137; Pub. L. 94-169, title I, § 106(25), Dec. 23, 1975, 89 Stat. 1018.)

AMENDMENTS

1975—Pub. L. 94-169 substituted "surviving spouse" for "widow".

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94-169 provided in part that amendment by Pub. L. 94-169 is effective Jan. 1, 1976.

§ 534. Surviving spouses of Indian War veterans

(a) The Administrator shall pay to the surviving spouse of each Indian War veteran who met the service requirements of section 511 of this title a pension at the following monthly rate:

(1) $40.64 if such surviving spouse is below seventy years of age; or

(2) $70 if such surviving spouse is seventy years of age or older; unless such surviving spouse was the spouse of the veteran during such veteran's service in one of the Indian Wars, in which case the monthly rate shall be $75.

(b) If there is a child of the veteran, the rate of pension paid to the surviving spouse under subsection (a) shall be increased by $8.13 per month for each such child.

(c) No pension shall be paid to a surviving spouse of a veteran under this section unless such surviving spouse was married to such veteran—

(1) before March 4, 1917; or

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1137; Pub. L. 90-77, title I, §§ 101(a), 105, Aug. 31, 1967, 81 Stat. 178, 179; Pub. L. 94-169, title I, § 106(26)-(29), Dec. 23, 1975, 89 Stat. 1018.)

AMENDMENTS

1975—Pub. L. 94-169, § 106(29), substituted "Surviving spouses" for "Widows" in section catchline.

Subsec. (a). Pub. L. 94-169, § 106(26), substituted "pay to a surviving spouse" for "paid to a widow", "unless such surviving spouse" for "she" wherever appearing, "was the spouse" for "was the wife" and "such veteran's" for "his".

Subsec. (b). Pub. L. 94-169, § 106(27), substituted "surviving spouse" for "widow".

Subsec. (c). Pub. L. 94-169, § 106(28), substituted "paid to a surviving spouse" for "paid to a widow", "unless such surviving spouse" for "unless she" and "such veteran" for "him".

1967—Subsec. (a)(2). Pub. L. 90-77, § 105, substituted "$70" for "$65".

Subsec. (c). Pub. L. 90-77, § 101(a), qualified widow of a veteran for a pension by reducing in par. (2) the requisite marriage period from five years to one year and by making her eligible for benefits in par. (3) in event of antenuptial birth.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94-169 provided in part that the amendment by Pub. L. 94-169 is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 535 of this title.

§ 535. Children of Indian War veterans

Whenever there is no surviving spouse entitled to pension under section 534 of this title, the Administrator shall pay to the children of each Indian War veteran who met the service requirements of section 511 of this title a pension at the monthly rate of $73.13 for one child, plus $8.13 for each additional child, with the total amount equally divided.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1137; Pub. L. 94-169, title I, § 106(31), Dec. 23, 1975, 89 Stat. 1018.)

AMENDMENTS

1975—Pub. L. 94-169 substituted "surviving spouse" for "widow".

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94-169 provided in part that the amendment by Pub. L. 94-169 is effective Jan. 1, 1976.

§ 536. Surviving spouses of Spanish-American War veterans

(a) The Administrator shall pay to the surviving spouse of each Spanish-American War veteran who met the service requirements of section 512(a) of this title a pension at the monthly rate of $70, unless such surviving spouse was the spouse of the veteran during such veteran's service in the Spanish-American War, in which case the monthly rate shall be $75.

(b) If there is a child of the veteran, the rate of pension paid to the surviving spouse under subsection (a) shall be increased by $8.13 per month for each such child.

(c) No pension shall be paid to a surviving spouse of a veteran under this section unless such surviving spouse was married to such veteran—

(1) before January 1, 1938; or

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

(d)(1) Any surviving spouse eligible for pension under this section shall, if such surviving spouse so elects, be paid pension at the rates prescribed by section 541 of this title, and under the conditions (other than the service requirements) applicable to pension paid under that section to surviving spouses of veterans of World War I. If pension is paid pursuant to such an election, the election shall be irrevocable, except as provided in paragraph (2).

(2) The Administrator shall pay each month to the surviving spouse of each Spanish-American War veteran who is receiving, or entitled to receive, pension based on a need of regular aid and attendance, whichever amount is greater (A) that which is payable to such surviving spouse under subsections (a) and (b) of this section as increased by section 544 of this title; or (B) that which is payable under section 541 of this title, as increased by such section 544, to a surviving spouse of a World War I veteran with the same annual income and corpus of estate. Each change in the amount of pension required by this paragraph shall be effective as of the first day of the month during which the facts of the particular case warrant such change, and shall be made without specific application therefor.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1138; Pub. L. 90-77, title I, §§ 101(a), 105, Aug. 31, 1967, 81 Stat. 178, 179; Pub. L. 92-328, title I, § 107, June 30, 1972, 86 Stat. 395; Pub. L. 94-169, title I, § 106(32)-(37), Dec. 23, 1975, 89 Stat. 1018, 1019.)

AMENDMENTS

1975—Pub. L. 94-169, § 106(37), substituted "Surviving spouses" for "Widows" in section catchline.

Subsec. (a). Pub. L. 94-169, § 106(32), substituted "pay to the surviving spouse" for "pay to the widow", "unless such surviving spouse" for "unless she", "the spouse" for "the wife" and "such veteran's" for "his".

Subsec. (b). Pub. L. 94-169, § 106(33), substituted "surviving spouse" for "widow".

Subsec. (c). Pub. L. 94-169, § 106(33), substituted "paid to a surviving spouse" for "paid to a widow", "unless such surviving spouse" for "unless she" and "such veteran" for "him".

Subsec. (d)(1). Pub. L. 94-169, § 106(34), substituted "Any surviving spouse" for "Any widow", "if such surviving spouse" for "if she" and "surviving spouses" for "widows".

Subsec. (d)(2). Pub. L. 94-169, § 106(35), (36), substituted "surviving spouse" for "widow" wherever appearing therein, and "such surviving spouse" for "her".

1972—Subsec. (d). Pub. L. 92-328 added subsec. (d).

1967—Subsec. (a). Pub. L. 90-77, § 105, substituted "$70" for "$65".

Subsec. (c). Pub. L. 90-77, § 101(a), qualified widow of a veteran for a pension by reducing in par. (2) the requisite marriage period from five years to one year and by making her eligible for benefits in par. (3) in event of antenuptial birth.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94-169 provided in part that the amendment by Pub. L. 94-169 is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-328 effective on the first day of the second calendar month which begins after June 30, 1972, see section 301(a) of Pub. L. 92-328, set out as an Effective Date of 1972 Amendment note under section 314 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 537 of this title.

§ 537. Children of Spanish-American War veterans

Whenever there is no surviving spouse entitled to pension under section 536 of this title, the Administrator shall pay to the children of each Spanish-American War veteran who met the service requirements of section 512(a) of this title a pension at the monthly rate of $73.13 for one child, plus $8.13 for each additional child, with the total amount equally divided.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1138; Pub. L. 94-169, title I, § 106(39), Dec. 23, 1975, 89 Stat. 1019.)

AMENDMENTS

1975—Pub. L. 94-169 substituted "surviving spouse" for "widow".

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94-169 provided in part that the amendment by Pub. L. 94-169 is effective Jan. 1, 1976.

MEXICAN BORDER PERIOD, WORLD WAR I, WORLD WAR II, THE KOREAN CONFLICT, AND THE VIETNAM ERA

AMENDMENTS

1970—Pub. L. 91-588, § 9(d)(3), Dec. 24, 1970, 84 Stat. 1585, added reference to the Mexican border period in the subheading.

1967—Pub. L. 90-77, title III, § 202(j), Aug. 31, 1967, 81 Stat. 183, included reference to Vietnam era in the subheading.

§ 541. Surviving Spouses of Mexican border period, World War I, World War II, Korean conflict, or Vietnam era veterans

(a) The Administrator shall pay to the surviving spouse of each veteran of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era who met the service requirements of section 521 of this title, or who at the time of death was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability pension at the rate prescribed by this section.

(b)(1) If there is no child, pension shall be paid to the surviving spouse according to the following formula:

The monthly rate of pension shall be $125 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$300
.01	$300	600
.03	600	900
.04	900	1,200
.05	1,200	2,300
.06	2,300	3,540

(2) In no case may the amount of pension payable to any surviving spouse under this subsection be less than $5 monthly.

(3) In no case may pension be paid under this subsection to any surviving spouse if the annual income of such surviving spouse exceeds $3,540.

(c)(1) If there is a surviving spouse and one child, pension shall be paid to the surviving spouse according to the following formula:

The monthly rate of pension shall be $149 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$700
.01	$700	1,100
.02	1,100	1,700
.03	1,700	2,500
.04	2,500	3,300
.05	3,300	4,760

(2) In no case may pension be paid under this subsection to any surviving spouse if the annual income of such surviving spouse exceeds $4,760.

(3) Whenever the monthly rate payable to any surviving spouse under paragraph (1) of this subsection is less than the amount which would be payable for one child under section 542 of this title if the surviving spouse were not entitled, the surviving spouse shall be paid at the child's rate.

(d) If there is a surviving spouse and more than one child, the monthly rate payable under subsection (c) shall be increased by $24 for each additional child.

(e) No pension shall be paid to a surviving spouse of a veteran under this section unless the spouse was married to the veteran—

(1) before (A) December 14, 1944, in the case of a surviving spouse of a Mexican border period or World War I veteran, or (B) January 1, 1957, in the case of a surviving spouse of a World War II veteran, or (C) February 1, 1965, in the case of a surviving spouse of a Korean conflict veteran, or (D) May 8, 1985, in the case of a surviving spouse of a Vietnam era veteran; or

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

(f) As used in this section and section 542 of this title, the term "veteran" includes a person who has completed at least two years of honorable active military, naval, or air service, as certified by the Secretary concerned, but whose death in such service was not in line of duty.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1138; Pub. L. 86-211, § 4, Aug. 29, 1959, 73 Stat. 434; Pub. L. 88-664, § 3(c), (d), Oct. 13, 1964, 78 Stat. 1095; Pub. L. 90-77, title I, §§ 101(a), 106, title II, § 202(d)-(f), Aug. 31, 1967, 81 Stat. 178, 179, 182; Pub. L. 90-275, § 1(c), (d), Mar. 28, 1968, 82 Stat. 65, 66; Pub. L. 91-588, §§ 1(c), (d), 9(d), Dec. 24, 1970, 84 Stat. 1581, 1584; Pub. L. 92-198, § 1(c), (d), (e), Dec. 15, 1971, 85 Stat. 663, 664; Pub. L. 93-177, § 1(c), (d), 2, Dec. 6, 1973, 87 Stat. 695; Pub. L. 93-527, § 3, Dec. 21, 1974, 88 Stat. 1703; Pub. L. 94-169, title I, §§ 101(2)(B), (C), (H), 103, 106(40), Dec. 23, 1975, 89 Stat.

1013, 1014, 1016, 1019; Pub. L. 94–432, title II, § 203, Sept. 30, 1976, 90 Stat. 1370.)

AMENDMENTS

1976—Subsec. (b)(1). Pub. L. 94–432, § 203(1), increased the monthly rate of pension from $117 to $125 and substituted $900 to $1,200 for $900 to $1,500, $1,200 to $2,300 for $1,500 to $2,700 and $2,300 to $3,540 for $2,700 to $3,300.

Subsec. (b)(3). Pub. L. 94–432, § 203(2), substituted "$3,540" for "$2,300".

Subsec. (c)(1). Pub. L. 94–432, § 203(3), increased the monthly rate of pension from $139 to $149 and substituted $1,100 to $1,700 for $1,100 to $1,800, $1,700 to $2,500 for $1,800 to $2,700, $2,500 to $3,300 for $2,700 to $3,500 and $3,300 to $4,760 for $3,500 to $4,500.

Subsec. (c)(2). Pub. L. 94–432, § 203(4), substituted "$4,760" for "$4,500".

Subsec. (d). Pub. L. 94–432, § 203(5), substituted "$24" for "$22".

1975—Pub. L. 94–169, § 101(2)(H), substituted "Surviving Spouses" for "Widows" in section catchline.

Subsec. (a). Pub. L. 94–169, § 101(2)(B), substituted "surviving spouse" for "widow" and struck out "his" preceding "death".

Subsec. (b). Pub. L. 94–169, § 103(1), increased, effective for the period beginning Jan. 1, 1976, and ending Sept. 30, 1976, the monthly rate of pension from $108 to $117, substituted $900 to $1500 for $900 to $2100, $1500 to $2700 for $2100 to $3000 the minimum and maximum income ranges for which the pension rates will be reduced by 4 and 5 cents per dollar, respectively, added the income range of $2700 to $3300 for which the pension rate will be reduced by 6 cents, and increased from $3000 to $3300 the maximum income in excess of which no pension will be paid.

Subsec. (c). Pub. L. 94–169, § 103(1), increased, effective for the period beginning Jan. 1, 1976, and ending Sept. 30, 1976, the pension rate from $128 to $139, substituted $1100 to $1800 for $1100 to $2100, $1800 to $2700 for $2100 to $3000, $2700 to $3500 for $3000 to $4200 the minimum and maximum income ranges for which the pension rates will be reduced by 2, 3 and 4 cents per dollar, respectively, added the income range of $3500 to $4500 for which the rate will be reduced by 5 cents, and increased the maximum income from $4200 to $4500 in excess of which no pension will be paid.

Subsec. (d). Pub. L. 94–169, § 103(2), substituted, effective for the period beginning Jan. 1, 1976, and ending Sept. 30, 1976, "surviving spouse" for "widow" and "$22" for "$20".

Subsec. (e). Pub. L. 94–169, § 101(2)(C), substituted "to a surviving spouse of a veteran under this section unless the spouse was married to the veteran" for "to a widow of a veteran under this section unless she was married to him", and "(D) May 8, 1985, in the case of a surviving spouse of a Vietnam era veteran" for "(D) before the expiration of ten years following termination of the Vietnam era in the case of a widow of a Vietnam era veteran".

Subsec. (e)(1). Pub. L. 94–169, § 106(40), substituted "surviving spouse" for "widow" in subcls. (A), (B) and (C).

1974—Subsec. (b). Pub. L. 93–527, § 3(1), substituted "$108" for "$96", "$900" for "$1400" wherever appearing therein, and "$2100" for "$2600", and added the provisions for the reduction by 5 cents for each dollar of annual income in excess of $2100 up to and including $3000, that in no event shall monthly rate of pension be less than $5.00, and raising the maximum income from $2600 to $3000.

Subsec. (c). Pub. L. 93–527, § 3(2), substituted "$128" for "$114", and "$2100" for "$2500" wherever appearing therein, "$3000" for "$3400" wherever appearing therein, and "$4200" for "$3800" wherever appearing therein.

Subsec. (d). Pub. L. 93–527, § 3(3), substituted "$20" for "$18".

Subsec. (f). Pub. L. 93–527, § 3(4), added subsec. (f).

1973—Subsec. (b). Pub. L. 93–177, § 1(c), substituted "$86" for "$87" and "$1,400" for "$1,900".

Subsec. (c). Pub. L. 93–177, § 1(d), substituted "$700" for "$600", "$114" for "$104", "$1,100" for "$1,400", "$2,500" for "$2,700", and "$3,400" for "$3,800" in the existing provisions and added provision for a reduction of 4 cents in the monthly rate for each $1 of annual income in excess of $3,400 up to and including $3,800.

Subsec. (d). Pub. L. 93–177, § 2, substituted "$18" for "$17".

1971—Subsec. (b). Pub. L. 92–198, § 1(c), substituted formula for computing monthly pension rates of widow without child by providing for a maximum monthly pension for each group within designated income category and for computing each individual's monthly pension by reducing the maximum rate by a specified number of cents for each dollar by which the minimum income limitation for that group is exceeded, for table setting out income and pension rates, and raised the maximum income from $2,300 to $2,600.

Subsec. (c). Pub. L. 92–198, § 1(d), substituted formula for computing monthly pension rates of widow with one child by providing for a maximum monthly pension for each group with designated annual income category and for computing each individual's monthly benefit rate by reducing the maximum rate by a specified number of cents for each dollar by which the minimum income limitation for that group is exceeded, for table setting out income and pension rates, and further providing that whenever the monthly rate payable is less than the amount payable to the child under section 542 of this title, the widow would be paid at the child's rate, and raised the maximum income from $3,500 to $3,800.

Subsec. (d). Pub. L. 92–198, § 1(e), substituted "$17" for "$16".

1970—Pub. L. 91–588, § 9(d)(3), added reference to the Mexican border period in the section catchline.

Subsec. (a). Pub. L. 91–588, § 9(d)(1), added reference to the Mexican border period.

Subsec. (b). Pub. L. 91–588, § 1(c), provided new annual income limits to measure monthly pension rates of widow without child by adding minimum income limits of $2,000, $2,100, and $2,200 with maximum limits of $2,100, $2,200, and $2,300 for monthly benefits of $29, $23, and $17, respectively, and within existing annual income limits from a maximum of $300 to a maximum of $2,000, as well as the in-between limits set out in one-hundred dollar increments, the applicable monthly benefit for each limit was amended, respectively, by substituting in column II "$81" for "$74", "80" for "73", "79" for "72", "78" for "70", "76" for "67", "73" for "64", "70" for "61", "67" for "58", "64" for "55", "61" for "51", "58" for "48", "55" for "45", "51" for "41", "48" for "37", "45" for "33", "41" for "29", "37" for "23", and "33" for "17".

Subsec. (c). Pub. L. 91–588, § 1(d), provided new annual income limits to measure monthly pension rates of widow with one child by adding minimum income limits of $3,200, $3,300, and $3,400 with maximum limits of $3,300, $3,400, and $3,500 for monthly benefits of $45, $43, and $41, respectively, and within existing annual income limits from a maximum of $600 to a maximum of $3,200, as well as the in-between limits set out in one-hundred dollar increments, the applicable monthly benefit for each limit was amended, respectively, by substituting in column II "$99" for "$90", "98" for "89", "97" for "88", "96" for "87", "95" for "86", "94" for "85", "92" for "83", "90" for "81", "88" for "79", "86" for "77", "84" for "75", "82" for "73", "80" for "71", "78" for "69", "76" for "67", "74" for "65", "72" for "63", "70" for "61", "68" for "59", "66" for "57", "64" for "55", "62" for "53", "59" for "51", "56" for "48", "53" for "45", "51" for "43", and "48" for "41".

Subsec. (e)(1). Pub. L. 91–588, § 9(d)(2), added reference to the Mexican border period.

1968—Subsec. (b). Pub. L. 90–275, § 1(c), in providing new annual income limits to measure monthly pension rates of widow without child, substituted minimum income limit of $300 for monthly benefit of $74 for

former $600 limit for monthly benefit of $70, maximum income limit of $2,000 for monthly benefit of $17 for former $1,800 limit for monthly benefit of $29, and sixteen other in-between limits in one hundred dollar increments from more than $300 to less than $1,900 for monthly benefits of $73 to $23 for former in-between limit of more than $600 but less than $1,200 for monthly benefit of $51.

Subsec. (c). Pub. L. 90-275, § 1(d), in providing new annual income limits to measure monthly pension rates of widow with one child, substituted minimum income limit of $600 for monthly benefit of $90 for former $1,000 limit for monthly benefit of $86, maximum income limit of $3,200 for monthly benefit of $41 for former $3,000 limit for monthly benefit of $45, and twenty-five other in-between limits in one hundred dollar increments from more than $600 to less than $3,100 for monthly benefits of $89 to $43 for former in-between limit of more than $1,000 but less than $2,000 for monthly benefit of $67.

1967—Pub. L. 90-77, § 202(f), included reference to Vietnam era in the catchline.

Subsec. (a). Pub. L. 90-77, § 202(d), included reference to Vietnam era.

Subsec. (b). Pub. L. 90-77, § 106(a), increased the monthly pension rate in column II from $64, $48, and $27 to $70, $51, and $29, respectively.

Subsec. (c). Pub. L. 90-77, § 106(b), increased the monthly pension rate in column II from $80, $64, and $43 to $86, $67, and $45, respectively.

Subsec. (d). Pub. L. 90-77, § 106(c), substituted "$16" for "$15".

Subsec. (e)(1). Pub. L. 90-77, § 202(e), added item (D).

Subsec. (e)(2), (3). Pub. L. 90-77, § 101(a), qualified widow of a veteran for a pension by reducing in par. (2) the requisite marriage period from five years to one year and by making her eligible for benefits in par. (3) in event of antenuptial birth.

1964—Subsec. (b). Pub. L. 88-664, § 3(c), increased the monthly pension rate in column II from $60, $45, and $25 to $64, $48, and $27, respectively.

Subsec. (c). Pub. L. 88-664, § 3(d), increased the monthly pension rate in column II from $75, $60, and $40 to $80, $64, and $43, respectively.

1959—Pub. L. 86-211 included widows of World War II and Korean conflict veterans in the catchline.

Subsec. (a). Pub. L. 86-211 included widows of World War II and Korean conflict veterans, and eliminated provisions which authorized payment of a monthly pension of $50.40 to a widow with no child and $63 to a widow with one child, with $7.56 for each additional child. See subsecs. (b) to (d) of this section.

Subsecs. (b) to (d). Pub. L. 86-211 added subsecs. (b) to (d) and redesignated former subsec. (b) as (e).

Subsec. (e). Pub. L. 86-211 redesignated former subsec. (b) as (e), and inserted the provisions relating to the date by which a widow was required to be married to a veteran of World War II or the Korean conflict.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-432 effective Jan. 1, 1977, see section 405(b) of Pub. L. 94-432, set out as an Effective Date of 1976 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Sections 101 and 106 of Pub. L. 94-169 provided in part that amendment of subsec. (a) by section 101 of Pub. L. 94-169 and amendment of subsec. (e) by sections 101 and 106 of Pub. L. 94-169 are effective Jan. 1, 1976.

Section 103 of Pub. L. 94-169, as amended by section 101 of Pub. L. 94-432 eff. Sept. 30, 1976, provided in part that amendment of subsecs. (b) to (d) by section 103 of Pub. L. 94-169 is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-527 effective Jan. 1, 1975, see section 10 of Pub. L. 93-527, set out as an Effective Date of 1974 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-177 effective Jan. 1, 1974, see section 8 of Pub. L. 93-177, set out as an Effective Date of 1973 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-198 effective Jan. 1, 1972, see section 6 of Pub. L. 92-198, set out as an Effective Date of 1971 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-588 effective Jan. 1, 1971, see section 10(a) of Pub. L. 91-588, set out as an Effective Date of 1970 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment Pub. L. 90-275 effective on Jan. 1, 1969, see section 6(a) of Pub. L. 90-275, set out as an Effective Date of 1968 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-664 effective Jan. 1, 1965, see section 11 of Pub. L. 88-664, set out as an Effective Date of 1964 Amendment note under section 503 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-211 effective July 1, 1960, see section 10 of Pub. L. 86-211, set out as an Effective Date of 1959 Amendment note under section 521 of this title.

PENSION, DEPENDENCY, AND INDEMNITY COMPENSATION; RELATION TO SOCIAL SECURITY AMENDMENTS OF 1967

Payments for balance of calendar year 1968 and calendar year 1969, calendar year 1970, and during each successive calendar year at prescribed monthly rates when payments would be less under this title as a result of increase in monthly insurance benefits provided by Social Security Amendments of 1967, see section 3 of Pub. L. 90-275, set out as a note under section 521 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 506, 536, 542, 543 of this title.

§ 542. Children of Mexican border period, World War I, World War II, Korean conflict, or Vietnam era veterans

(a) Whenever there is no surviving spouse entitled to pension under section 541 of this title, the Administrator shall pay to the child or children of each veteran of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era, who met the service requirements of section 521 of this title, or who at the time of death was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability, pension at the monthly rate of $57 for one child, and $24 for each additional child.

(b) Pension prescribed by this section shall be paid to eligible children in equal shares.

(c) No pension shall be paid under this section to a child whose annual income, excluding earned income, exceeds $2,890.

(Pub. L. 85-587, Sept. 2, 1958, 72 Stat. 1138; Pub. L. 86-211, § 4, Aug. 29, 1959, 73 Stat. 435; Pub. L. 88-664, § 4, Oct. 13, 1964, 78 Stat. 1095; Pub. L. 90-77, title I, § 107, title II, § 202(g), (h), Aug. 31, 1967, 81 Stat. 180, 182; Pub. L. 91-588, §§ 3(c), 9(e), Dec. 24, 1970, 84 Stat. 1583, 1585; Pub. L. 92-198, § 1(f), Dec. 15, 1971, 85 Stat. 664; Pub. L. 93-177, § 3, Dec. 6, 1973, 87 Stat. 695; Pub. L. 93-527, § 4, Dec. 21, 1974, 88 Stat. 1703; Pub. L. 94-169, title I, §§ 101(2)(D), 104, Dec. 23, 1975, 89 Stat. 1014, 1016; Pub. L. 94-432, title II, § 204, Sept. 30, 1976, 90 Stat. 1371.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-432, § 204(1), substituted "$57" and "$24" for "$53" and "$22", respectively.

Subsec. (c). Pub. L. 94-432, § 204(2), substituted "$2,890" for "$2,700".

1975—Subsec. (a). Pub. L. 94-169, §§ 101(2)(D), 104(1), substituted "surviving spouse" for "widow", struck out "his" preceding "death," and, effective for the period beginning Jan. 1, 1976, and ending Sept. 30, 1976, substituted "$53" for "$49" and "$22" for "$20".

Subsec. (c). Pub. L. 94-169, § 104, substituted, effective for the period beginning Jan. 1, 1976, and ending Sept. 30, 1976, "$2700" for "$2400".

1974—Subsec. (a). Pub. L. 93-527, § 4(1), substituted "$49" and "$20" for "$44" and "$18" respectively.

Subsec. (c). Pub. L. 93-527, § 4(2), substituted "$2,400" for "$2,000".

1973—Subsec. (a). Pub. L. 93-177 substituted "$44" for "$42" and "$18" for "$17".

1971—Subsec. (a). Pub. L. 92-198 substituted "$42" and "$17" for "$40" and "$16" respectively.

1970—Pub. L. 91-588, § 9(e)(2), added reference to the Mexican border period in the section catchline.

Subsec. (a). Pub. L. 91-588, § 9(e)(1), added reference to the Mexican border period.

Subsec. (c). Pub. L. 91-588, § 3(c), substituted "$2,000" for "$1,800".

1967—Pub. L. 90-77, § 202(h), included reference to Vietnam era in the catchline.

Subsec. (a). Pub. L. 90-77, §§ 107, 202(g), substituted "$40" and "$16" for "$38" and "$15" and included reference to Vietnam era, respectively.

1964—Subsec. (a). Pub. L. 88-664 increased the monthly pension for one child from $35 to $38.

1959—Pub. L. 86-211 included children of World War II and Korean conflict veterans in the catchline.

Subsec. (a). Pub. L. 86-211 included children of World War II and Korean conflict veterans, and substituted provisions authorizing the payment of a monthly pension of $35 for one child with $15 for each additional child for provisions which authorized the payment of $27.30 for one child, $40.95 for two children, $54.60 for three children and $7.56 for each additional child.

Subsec. (c). Pub. L. 86-211 added subsec. (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-432 effective Jan. 1, 1977, see section 405(b) of Pub. L. 94-432, set out as an Effective Date of 1976 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 101 of Pub. L. 94-169 provided in part that amendment of subsec. (a) of this section by section 101 of Pub. L. 94-169, substituting "surviving spouse" for "widow" and striking out "his" preceding "death" is effective Jan. 1, 1976.

Section 104 of Pub. L. 94-169, as amended by section 101 of Pub. L. 94-432, eff. Sept. 30, 1976, provided in part that amendment of subsecs. (a) and (c) of this section by section 104 of Pub. L. 94-169 is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-527 effective Jan. 1, 1975, see section 10 of Pub. L. 93-527, set out as an Effective Date of 1974 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-177 effective Jan. 1, 1974, see section 8 of Pub. L. 93-177, set out as an Effective Date of 1973 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-198 effective Jan. 1, 1972, see section 6 of Pub. L. 92-198, set out as an Effective Date of 1971 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-588 effective Jan. 1, 1971, see section 10(a) of Pub. L. 91-588, set out as an Effective Date of 1970 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-664 effective Jan. 1, 1965, see section 11 of Pub. L. 88-664, set out as an Effective Date of 1964 Amendment note under section 503 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-211 effective July 1, 1960, see section 10 of Pub. L. 86-211, set out as an Effective Date of 1959 Amendment note under section 521 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 506, 541, 543 of this title.

§ 543. Net worth limitation

The Administrator shall deny or discontinue payment of pension under sections 541 or 542 of this title to a surviving spouse or child when the corpus of the estate of the survivor concerned is such that under all the circumstances, including consideration of income, it is reasonable that some part of the corpus be consumed for the survivor's maintenance.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1138; Pub. L. 86-211, Aug. 29, 1959, 73 Stat. 435; Pub. L. 94-169, title I, § 101(2)(E), Dec. 23, 1975, 89 Stat. 1014.)

AMENDMENTS

1975—Pub. L. 94-169 substituted "surviving spouse" for "widow".

1959—Pub. L. 86-211 substituted provisions requiring the denial or discontinuance of payment of pension to a widow or child when the corpus of the estate of the survivor concerned is such that under all the circumstances, including consideration of income, it is reasonable that some part of the corpus be consumed for the survivor's maintenance for provisions which authorized the payment of a pension to widows of World War II or Korean conflict veterans. See section 541 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 101 of Pub. L. 94-169 provided in part that amendment by Pub. L. 94-169 is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-211 effective July 1, 1960, see section 10 of Pub. L. 86-211, set out as an Effective Date of 1959 Amendment note under section 521 of this title.

SURVIVING SPOUSES OF VETERANS OF ALL PERIODS OF WAR

AMENDMENTS

1975—Pub. L. 94-169, title I, § 101(2)(I), Dec. 23, 1975, 89 Stat. 1014, substituted "Surviving Spouses" for "Widows" in subheading.

§ 544. Aid and attendance allowance

If any surviving spouse is entitled to pension under this subchapter and is in need of regular aid and attendance, the monthly rate of pension payable to the surviving spouse shall be increased by $74.

(Added Pub. L. 90-77, title I, § 108(a), Aug. 31, 1967, 81 Stat. 180, and amended Pub. L. 91-588, § 3(a), Dec. 24, 1970, 84 Stat. 1583; Pub. L. 93-527, § 5, Dec. 21, 1974, 88 Stat. 1704; Pub. L. 94-169, title I, § 105, Dec. 23, 1975, 89 Stat. 1017; Pub. L. 94-432, title II, § 205, Sept. 30, 1976, 90 Stat. 1371.)

PRIOR PROVISIONS

A prior section 544, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1139, which authorized the payment of a pension to children of World War II or Korean conflict veterans, was omitted by Pub. L. 86-211, § 4, Aug. 29, 1950, 73 Stat. 434, which amended this subchapter generally. See now sections 542 and 543 of this title.

A prior section 545 of this title, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1139, which authorized the payment of a pension to children of World War II or Korean conflict veterans and prescribed income limitations, was omitted by Pub. L. 86-211, § 4, Aug. 29, 1959, 73 Stat. 434, which amended this subchapter generally. See now section 543 of this title.

AMENDMENTS

1976—Pub. L. 94-432 substituted "$74" for "$69".

1975—Pub. L. 94-169 substituted, effective for the period beginning Jan. 1, 1976, and ending Sept. 30, 1976, "surviving spouse" for "widow", "to the surviving spouse" for "to her", and "$69" for "$64".

1974—Pub. L. 93-527 substituted "$64" for "$55".

1970—Pub. L. 91-588 substituted "$55" for "$50".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-432 effective Jan. 1, 1977, see section 405(b) of Pub. L. 94-432, set out as an Effective Date of 1976 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 105 of Pub. L. 94-169, as amended by section 101 of Pub. L. 94-432, eff. Sept. 30, 1976, provided in part that the amendment by Pub. L. 94-169 is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-527 effective Jan. 1, 1975, see section 10 of Pub. L. 93-527, set out as an Effective Date of 1974 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-588 effective Jan. 1, 1971, see section 10(a) of Pub. L. 91-588, set out as an Effective Date of 1970 Amendment note under section 521 of this title.

EFFECTIVE DATE

Section effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 536 of this title.

SUBCHAPTER IV—ARMY, NAVY, AIR FORCE, AND COAST GUARD MEDAL OF HONOR ROLL

AMENDMENTS

1963—Pub. L. 88-77, § 5(3), July 25, 1963, 77 Stat. 96, substituted "Army, Navy, Air Force, and Coast Guard", for "Army, Navy, and Air Force", in the subchapter heading.

§ 560. Medal of Honor Roll; persons eligible

(a) There shall be in the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Department of Transportation, respectively, a roll designated as the "Army, Navy, Air Force, and Coast Guard Medal of Honor Roll".

(b) Upon written application to the Secretary concerned, the Secretary shall enter and record on such roll the name of each surviving person who has served on active duty in the armed forces of the United States and who has been awarded a medal of honor for distinguishing such person conspicuously by gallantry and intrepidity at the risk of such person's life above and beyond the call of duty while so serving.

(c) Applications for entry on such roll shall be made in the form and under regulations prescribed by the Secretary concerned, and shall indicate whether or not the applicant desires to receive the special pension provided by section 562 of this title. Proper blanks and instructions shall be furnished by the Secretary concerned, without charge upon the request of any person claiming the benefits of this subchapter.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1139; Pub. L. 87-138, § 1, Aug. 14, 1961, 75 Stat. 338; Pub. L. 88-77, § 5(1), July 25, 1963, 77 Stat. 95; Pub. L. 88-651, Oct. 13, 1964, 78 Stat. 1078; Pub. L. 89-311, § 4, Oct. 31, 1965, 79 Stat. 1156; Pub. L. 91-24, § 5, June 11, 1969, 83 Stat. 33; Pub. L. 94-169, title I, § 106(41), Dec. 23, 1975, 89 Stat. 1019.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 94-169 substituted "such person" for "himself" and "such person's" for "his".

1969—Subsec. (a). Pub. L. 91-24 substituted "Department of Transportation" for "Department of the Treasury".

1965—Subsec. (b). Pub. L. 89-311 removed requirement that prospective enrollees have attained the age of forty before being eligible for entry on the roll.

1964—Subsec. (b). Pub. L. 88-651 substituted "forty years" for "fifty years" and "beyond the call of duty while so serving" for "beyond the call of duty—

"(1) while engaged in action against an enemy of the United States;

"(2) while engaged in military operations involving conflict with an opposing foreign force; or

"(3) while serving with friendly foreign forces engaged in an armed conflict against an opposing

armed force in which the United States is not a belligerent party."

1963—Subsec. (a). Pub. L. 88-77 inserted references to the Department of the Treasury and to the Coast Guard.

Subsec. (b). Pub. L. 88-77 enlarged the authority to enter and record names on the Medal of Honor Roll, which was limited to persons who served in the active military, naval or air service of the United States in any war, and who distinguished themselves by gallantry or intrepidity in action involving actual conflict with an enemy, to permit entering and recording names of persons who served on active duty in the Armed Forces of the United States distinguish themselves by gallantry and intrepidity while engaged in action against an enemy of the United States, while engaged in military operations involving conflict with an opposing foreign force, or while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

1961—Subsec. (b). Pub. L. 87-138, § 1(a), reduced the age requirement for entry on the Medal of Honor Roll from 65 to 50 years and eliminated the requirement that such person must have received an honorable discharge.

Subsec. (c). Pub. L. 87-138, § 1(b), required applicants to indicate if they wished to receive the pension provided by section 562 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94-169 provided in part that the amendment by Pub. L. 94-169 is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-311 to take effect on the first day of the second calendar month following the date of enactment of Pub. L. 89-311, which was approved on Oct. 31, 1965, see section 9 of Pub. L. 89-311, set out as an Effective Date of 1965 Amendment note under section 314 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 4 of Pub. L. 87-138 provided that: "The amendments made by this Act [to sections 560, 561, and 562 of this title] shall take effect on the first day of the first month which begins after the date of the enactment of this Act [Aug. 14, 1961], except that the amendments made by subsection (b) of the first section [to subsec. (c) of this section] and by section 2 [to section 561 of this title] shall not apply with respect to any application under section 560 of title 38, United States Code [this section], made before such first day by any person who fulfilled the qualifications prescribed by subsection (b) of such section at the time such application was made."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 561, 562 of this title.

§ 561. Certificate

(a) The Secretary concerned shall determine whether or not each applicant is entitled to have such person's name entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll. If the official award of the Medal of Honor to the applicant, or the official notice to such person thereof, shows that the Medal of Honor was awarded to the applicant for an act described in section 560 of this title, such award or notice shall be sufficient to entitle the applicant to have such person's name entered on such roll without further investigation; otherwise all official correspondence, orders, reports, recommendations, requests, and other evidence on file in any public office or department shall be considered.

(b) Each person whose name is entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll shall be furnished a certificate of service and of the act of heroism, gallantry, bravery, or intrepidity for which the Medal of Honor was awarded, of enrollment on such roll, and, if such person has indicated such person's desire to receive the special pension provided by section 562 of this title, of such person's right to such special pension.

(c) The Secretary concerned shall deliver to the Administrator a certified copy of each certificate issued under subsection (b) in which the right of the person named in the certificate to the special pension provided by section 562 of this title is set forth. Such copy shall authorize the Administrator to pay such special pension to the person named in the certificate.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1139; Pub. L. 87-138, § 2(a), Aug. 14, 1961, 75 Stat. 338; Pub. L. 88-77, § 5(2), July 25, 1963, 77 Stat. 95; Pub. L. 94-169, title I, § 106(42), (43), Dec. 23, 1975, 89 Stat. 1019.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-169, § 106(42), substituted "such person's" for "his" wherever appearing therein, and "such person" for "him".

Subsec. (b). Pub. L. 94-169, § 106(42), substituted "such person" for "he" and "such person's" for "his" wherever appearing therein.

Subsec. (c). Pub. L. 94-169, § 106(43), struck out "by him" following "certificate issued".

1963—Subsecs. (a), (b). Pub. L. 88-77 inserted references to the Coast Guard.

1961—Pub. L. 87-138 amended the catchline by deleting "entitling holder to pension", following "Certificate".

Subsec. (a). Pub. L. 87-138 substituted "have his name entered on the Army, Navy, and Air Force Medal of Honor Roll" for "the benefits of this subchapter", and "have his name entered on such roll" for "special pension under this subchapter".

Subsec. (b). Pub. L. 87-138 inserted provisions relating to the enrollee's indication of desire to receive pension.

Subsec. (c). Pub. L. 87-138 required the copy to set forth the right of the person named in the certificate to the pension.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94-169 provided in part that the amendment by Pub. L. 94-169 is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment of section by Pub. L. 87-138 effective Sept. 1, 1961, except that it shall not apply with respect to applications under section 560 of this title made prior to Sept. 1, 1961, by anyone who fulfilled the qualifications prescribed by subsec. (b) of such section 560 at the time such application was made, see section 4 of Pub. L. 87-138, set out as an Effective Date of 1961 Amendment note under section 560 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 562 of this title.

§ 562. Special provisions relating to pension

(a) The Administrator shall pay monthly to each person whose name has been entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor roll, and a copy of whose certif-

icate has been delivered to the Administrator under subsection (c) of section 561 of this title, a special pension at the rate of $100, beginning as of the date of application therefore under section 560 of this title.

(b) The receipt of special pension shall not deprive any person of any other pension or other benefit, right, or privilege to which such person is or may hereafter be entitled under any existing or subsequent law. Special pension shall be paid in addition to all other payments under laws of the United States.

(c) Special pension shall not be subject to any attachment, execution, levy, tax lien, or detention under any process whatever.

(d) If any person has been awarded more than one medal of honor, such person shall not receive more than one special pension.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1140; Pub. L. 87-138, § 3, Aug. 4, 1961, 75 Stat. 339; Pub. L. 88-77, § 5(a), July 25, 1963, 77 Stat. 95; Pub. L. 94-169, title I, § 106(44), (45), Dec. 23, 1975, 89 Stat. 1019.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-169, § 106(44), substituted "delivered to the Administrator" for "delivered to him".

Subsec. (b). Pub. L. 94-169, § 106(45), substituted "such person" for "he".

Subsec. (d). Pub. L. 94-169, § 106(45), substituted "such person" for "he".

1963—Subsec. (a). Pub. L. 88-77 inserted references to the Coast Guard.

1961—Subsec. (a). Pub. L. 87-138 inserted ", and a copy of whose certificate has been delivered to him under subsection (c) of section 561 of this title," following "Medal of Honor roll", and increased the pension from $10 to $100.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94-169 provided in part that the amendment by Pub. L. 94-169 is effective Jan. 1, 1976.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 560, 561 of this title; title 26 section 6334.

CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

SUBCHAPTER I—GENERAL

Sec.
601. Definitions.
602. Presumption relating to psychosis.

SUBCHAPTER II—HOSPITAL, NURSING HOME, OR DOMICILIARY CARE AND MEDICAL TREATMENT

610. Eligibility for hospital, nursing home, and domiciliary care.
611. Care during examinations and in emergencies.
612. Eligibility for medical treatment.
613. Medical care for survivors and dependents of certain veterans.
614. Fitting and training in use of prosthetic appliances; seeing-eye dogs.
615. Tobacco for hospitalized veterans.
616. Hospital care by other agencies of the United States.
617. Invalid lifts and other devices.
618. Therapeutic and rehabilitative activities.
619. Repair or replacement of certain prosthetic and other appliances.
620. Transfers for nursing home care.

SUBCHAPTER III—MISCELLANEOUS PROVISIONS RELATING TO HOSPITAL AND NURSING HOME CARE AND MEDICAL TREATMENT OF VETERANS

Sec.
621. Power to make rules and regulations.
622. Statement under oath.
623. Furnishing of clothing.
624. Hospital care, medical services and nursing home care abroad.
[625. Repealed.]
626. Reimbursement for loss of personal effects by natural disaster.
627. Persons eligible under prior law.
628. Reimbursement of certain medical expenses.

SUBCHAPTER IV—HOSPITAL AND MEDICAL CARE FOR COMMONWEALTH OF THE PHILIPPINES ARMY VETERANS

631. Assistance to the Republic of the Philippines.
632. Contracts and grants to provide hospital care, medical services and nursing home care.
633. Supervision of program by the President.
634. Definitions.

SUBCHAPTER V—PAYMENTS TO STATE HOMES

641. Criteria for payment.
642. Inspections of such homes; restrictions on beneficiaries.
643. Applications.
644. Authorization of appropriations.

SUBCHAPTER VI—SICKLE CELL ANEMIA

651. Screening, counseling, and medical treatment.
652. Research.
653. Voluntary participation; confidentiality.
654. Reports.

AMENDMENTS

1976—Pub. L. 94-581, title II, §§ 202(a), 203(b), Oct. 21, 1976, 90 Stat. 2855, 2856, inserted "NURSING HOME," in the chapter heading, and, in the analysis of subchapter headings and section catchlines, inserted ", NURSING HOME" in the item for subchapter II, inserted ", nursing home" in item 610, substituted "Care" for "Hospitalization" in item 611, and inserted "AND NURSING HOME" in the item for subchapter III.

1973—Pub. L. 93-82, title I, §§ 103(c), 106(b), 107(b), 109(b), Aug. 2, 1973, 87 Stat. 182, 184, 186, 187, substituted "Medical care for survivors and dependents of certain veterans" and "Fitting and training in use of prosthetic appliances; seeing-eye dogs" for "Fitting and training in use of prosthetic appliances" and "Seeing-eye dogs" in items 613 and 614 respectively, substituted "natural disaster" for "fire" in item 626, added item 628, substituted "Assistance to the Republic of the Philippines" and "Contracts and grants to provide hospital care, medical services and nursing home care" for "Grants to the Republic of the Philippines" and "Modification of agreement with the Republic of the Philippines effectuating the Act of July 1, 1948" in items 631 and 632, respectively, and added "Subchapter VI—Sickle Cell Anemia" comprising items 651 to 654.

Pub. L. 93-43, § 4(c)(2), June 18, 1973, 87 Stat. 79, deleted item 625.

1969—Pub. L. 91-178, § 2(b), Dec. 30, 1969, 83 Stat. 837, added item 644.

1968—Pub. L. 90-493, § 3(b), Aug. 19, 1968, 82 Stat. 809, substituted "Invalid lifts and other devices" for "Invalid lifts and other devices for pensioners" in item 617.

1964—Pub. L. 88-450, §§ 2(b), 6(b), Aug. 19, 1964, 78 Stat. 500, 504, inserted words "and other devices" in item 617, and added item 620.

1962—Pub. L. 87-850, § 1(b), Oct. 23, 1962, 76 Stat. 1126, added item 619.

Pub. L. 87-574, § 2(2), Aug. 6, 1962, 76 Stat. 308, added item 618.

1959—Pub. L. 86-211, § 7(b), Aug. 29, 1959, 73 Stat. 436, added item 617.

CROSS REFERENCES

Third party tort liability to United States for hospital and medical care, except for treatment of veterans under this chapter, see section 2651 et seq. of Title 42, The Public Health and Welfare.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 106, 1506, 1685, 1903, 4133, 5053 of this title.

SUBCHAPTER I—GENERAL

§ 601. Definitions

For the purposes of this chapter—

(1) The term "disability" means a disease, injury, or other physical or mental defect.

(2) The term "veteran of any war" includes any veteran of the Indian Wars, or any veteran awarded the Medal of Honor.

(3) The term "period of war" includes each of the Indian Wars.

(4) The term "Veterans' Administration facilities" means—

(A) facilities over which the Administrator has direct jurisdiction;

(B) Government facilities for which the Administrator contracts; and

(C) private facilities for which the Administrator contracts when facilities described in clause (A) or (B) of this paragraph are not capable of furnishing economical care because of geographical inaccessibility or of furnishing the care or services required in order to provide (i) hospital care or medical services to a veteran for the treatment of a service-connected disability or a disability for which a veteran was discharged or released from the active military, naval, or air service; (ii) medical services for the treatment of any disability of a veteran described in clause (1)(B) or (2) of section 612(f) of this title, (iii) hospital care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a veteran receiving hospital care in a facility described in clause (A) or (B) of this paragraph; (iv) hospital care for women veterans; or (v) hospital care for veterans in a State, territory, Commonwealth, or possession of the United States not contiguous to the forty-eight contiguous States, except that the annually determined average hospital patient load per thousand veteran population hospitalized at Veterans' Administration expense in Government and private facilities in each such noncontiguous State may not exceed the average patient load per thousand veteran population hospitalized by the Veterans' Administration within the forty-eight contiguous States; but authority under this subclause (v) shall expire on December 31, 1978.

(5) The term "hospital care" includes—

(A)(i) medical services rendered in the course of the hospitalization of any veteran, and (ii) transportation and incidental expenses pursuant to the provisions of section 111 of this title;

(B) such mental health services, consultation, professional counseling, and training for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of a veteran or dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title; and

(C)(i) medical services rendered in the course of the hospitalization of a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title, and (ii) transportation and incidental expenses for such dependent or survivor of a veteran who is in need of treatment for any injury, disease, or disability and is unable to defray the expense of transportation.

(6) The term "medical services" includes, in addition to medical examination, treatment, and rehabilitative services—

(A)(i) surgical services, dental services and appliances as authorized in section 612(b), (c), (d), and (e) of this title, optometric and podiatric services, and (except under the conditions described in section 612(f)(1)(A) of this title), wheelchairs, artificial limbs, trusses, and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services as the Administrator determines to be reasonable and necessary, and (ii) travel and incidental expenses pursuant to the provisions of section 111 of this title; and

(B) such consultation, professional counseling, training, and mental health services as are necessary in connection with the treatment—

(i) of the service-connected disability of a veteran pursuant to section 612(a) of this title, and

(ii) in the discretion of the Administrator, of the non-service-connected disability of a veteran eligible for treatment under section 612(f)(1)(B) of this title where such services were initiated during the veteran's hospitalization and the provision of such services on an outpatient basis is essential to permit the discharge of the veteran from the hospital,

for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of the veteran (including, under the terms and conditions set forth in section 111 of this title, necessary expenses of travel and subsistence of such family member or individual in the case of a veteran who is receiving care for a service-connected disability, or in the case of dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title). For the purposes of this paragraph, a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title shall be eligible for the same medical services as a veteran.

(7) The term "domiciliary care" includes necessary medical services and travel and incidental expenses pursuant to the provisions of section 111 of this title.

(8) The term "rehabilitative services" means such professional, counseling, and guidance services and treatment programs (other than those types of vocational rehabilitation services provided under chapter 31 of this title) as are necessary to restore, to the maximum extent possible, the physical, mental, and psychological functioning of an ill or disabled person.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1141; Pub. L. 86-598, July 7, 1960, 74 Stat. 335; Pub. L. 86-639, § 2, July 12, 1960, 74 Stat. 472; Pub. L. 88-481, Aug. 22, 1964, 78 Stat. 593; Pub. L. 90-612, § 2, Oct. 21, 1968, 82 Stat. 1202; Pub. L. 93-82, title I, § 101, Aug. 2, 1973, 87 Stat. 179; Pub. L. 94-581, title I, § 102, title II, § 202(b), Oct. 21, 1976, 90 Stat. 2843, 2855.)

AMENDMENTS

1976—Par. (4)(A). Pub. L. 94-581, § 202(b)(1), substituted "direct jurisdiction" for "direct and exclusive jurisdiction".

Par. (4)(C). Pub. L. 94-581, § 202(b)(2), inserted "when facilities described in clause (A) or (B) of this paragraph are not capable of furnishing economical care because of geographical inaccessibility or of furnishing the care or services required" following "contracts" in the provisions preceding subcl. (i), substituted "to a veteran for the treatment of a service-connected disability or a disability for which a veteran was discharged" for "for persons suffering from service-connected disabilities or from disabilities for which such persons were discharged" in subcl. (i), added subcls. (ii) and (iii), redesignated former subcls. (ii) and (iii) as (iv) and (v), respectively, and in subcl. (v) as so redesignated, substituted "subclause (v)" for "clause (iii)".

Par. (5)(A)(ii). Pub. L. 94-581, § 202(b)(3), substituted "pursuant to the provisions of section 111 of this title" for "for any veteran who is in need of treatment for a service-connected disability or who is unable to defray the expense of transportation".

Par. (5)(B). Pub. L. 94-581, § 102(1), substituted "for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of a veteran or dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title; and "for" (including (i) necessary expenses for transportation if unable to defray such expenses; or (ii) necessary expenses of transportation and subsistence in the case of a veteran who is receiving care for a service-connected disability, or in the case of a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title, under the terms and conditions set forth in section 111 of this title) of the members of the immediate family (including legal guardians) of a veteran or such a dependent or survivor of a veteran, or in the case of a veteran or such dependent or survivor of a veteran who has no immediate family members (or legal guardian), the person in whose household such veteran, or such a dependent or survivor certifies his intention to live, as may be necessary or appropriate to the effective treatment and rehabilitation of a veteran or such a dependent or a survivor of a veteran; and".

Par. (6). Pub. L. 94-581, § 102(2), expanded the definition of "medical services" to include rehabilitation services, podiatric services, and travel and incidental expenses pursuant to the provisions of section 111 of this title, and, for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of the veteran, such consultation, professional counseling, training, and mental health services as are necessary in connection with the treatment of the service-connected disability of a veteran pursuant to section 612(a) of this title, and, in the discretion of the Administrator, of the non-service-connected disability of a veteran eligible for treatment under section 612(f)(1)(B) of this title where such services were initiated during the veteran's hospitalization and the provision of such services on an outpatient basis is essential to permit the discharge of the veteran from the hospital.

Par. (7). Pub. L. 94-581, § 102(3), substituted "necessary medical services and travel and incidental expenses pursuant to the provisions of section 111 of this title" for "transportation and incidental expenses for veterans who are unable to defray the expenses of transportation".

Par. (8). Pub. L. 94-581, § 102(4), added par. (8).

1973—Par. (4)(C). Pub. L. 93-82, § 101(a), extended the Administrator's contract authority for providing hospital care and medical services to persons suffering from service-connected disabilities or from disabilities for which such persons were discharged or released from the active military, naval, or air service and removed the limitation on such authority that such care be rendered in emergency cases only.

Par. (5). Pub. L. 93-82, § 101(b), incorporated existing provisions in subpar. (A), and added subpars. (B) and (C).

Par. (6). Pub. L. 93-82, § 101(c), expanded the definition of "medical services" to include home health services determined by the Secretary to be necessary or appropriate for the effective and economical treatment of a disability of a veteran or a dependent or survivor of a veteran receiving care under section 613(b) of this title.

1968—Par. (4)(C)(iii). Pub. L. 90-612 expanded the category of veterans of wars in the Territories, Commonwealths, or possessions of the United States to include, until December 31, 1978, veterans of such wars in States not contiguous to the forty-eight contiguous States, with the annually determined average hospital patient load per thousand of hospitalized veteran population in each such noncontiguous States not to exceed the average within the forty-eight contiguous States.

1964—Pub. L. 88-481 included any veteran awarded the Medal of Honor within par. (2).

1960—Pub. L. 86-639 inserted words "(except under the conditions described in section 612(f)(1))" in par. (6).

Pub. L. 86-598 inserted "optometrists' services" following "medical examination and treatment" in par. (6).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581 set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 501 of Pub. L. 93-82 provided that: "The provisions of this Act [see Short Title note set out under section 101 of this title] shall become effective the first day of the first calendar month following the date of enactment [Aug. 2, 1973], except that sections 105 and 106 [amending section 626 of this title and enacting section 628 of this title] shall be effective on January 1, 1971; section 107 [enacting sections 631 and 632 of this title and provisions set out as note under section 632 of this title] shall be effective July 1, 1973; and section 203 [amending section 4107 of this title] shall become effective beginning the first pay period following thirty days after the date of enactment of this Act [Aug. 2, 1973]."

§ 602. Presumption relating to psychosis

For the purposes of this chapter, any veteran of World War II, the Korean conflict, or the Vietnam era who developed an active psychosis (1) within two years after his discharge or release from the active military, naval or air service, and (2) before July 26, 1949, in the case of a

veteran of World War II, or February 1, 1957, in the case of a veteran of the Korean conflict, or before the expiration of two years following termination of the Vietnam era in the case of a Vietnam era veteran, shall be deemed to have incurred such disability in the active military, naval, or air service.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1141; Pub. L. 90-77, title II, § 203(a), Aug. 31, 1967, 81 Stat. 183.)

AMENDMENTS

1967—Pub. L. 90-77 made the presumption relating to psychosis applicable to any veteran of the Vietnam era who developed an active psychosis within two years after his discharge from active service and before the expiration of two years following termination of the Vietnam era.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

SUBCHAPTER II—HOSPITAL, NURSING HOME, OR DOMICILIARY CARE AND MEDICAL TREATMENT

AMENDMENTS

1976—Pub. L. 94-581, title II, § 202(c), Oct. 21, 1976, 90 Stat. 2855, inserted ", Nursing Home," in the subchapter heading.

§ 610. Eligibility for hospital, nursing home, and domiciliary care

(a) The Administrator, within the limits of Veterans' Administration facilities, may furnish hospital care or nursing home care which the Administrator determines is needed to—

(1)(A) any veteran for a service-connected disability; or

(B) any veteran for a non-service-connected disability if such veteran is unable to defray the expenses of necessary hospital or nursing home care;

(2) a veteran whose discharge or release from the active military, naval, or air service was for a disability incurred or aggravated in line of duty;

(3) a person who is in receipt of, or but for the receipt of retirement pay would be entitled to, disability compensation; and

(4) any veteran for a non-service-connected disability if such veteran is sixty-five years of age or older.

(b) The Administrator, within the limits of Veterans' Administration facilities, may furnish domiciliary care to—

(1) a veteran who was discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty, or a person who is in receipt of disability compensation, when such person is suffering from a permanent disability or tuberculosis or neuropsychiatric ailment and is incapacitated from earning a living and has no adequate means of support; and

(2) a veteran who is in need of domiciliary care if such veteran is unable to defray the expenses of necessary domiciliary care.

(c) While any veteran is receiving hospital care or nursing home care in any Veterans' Administration facility, the Administrator may, within the limits of Veterans' Administration facilities, furnish medical services to correct or treat any non-service-connected disability of such veteran, in addition to treatment incident to the disability for which such veteran is hospitalized, if the veteran is willing, and the Administrator finds such services to be reasonably necessary to protect the health of such veteran.

(d) In no case may nursing home care be furnished in a hospital not under the direct jurisdiction of the Administrator except as provided in section 620 of this title.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1141; Pub. L. 87-583, § 1, Aug. 14, 1962, 76 Stat. 381; Pub. L. 89-358, § 8, Mar. 3, 1966, 80 Stat. 27; Pub. L. 89-785, title III, § 304, Nov. 7, 1966, 80 Stat. 1377; Pub. L. 91-500, § 4, Oct. 22, 1970, 84 Stat. 1096; Pub. L. 93-82, title I, § 102, Aug. 2, 1973, 87 Stat. 180; Pub. L. 94-581, title II, §§ 202(d), 210(a)(1), Oct. 21, 1976, 90 Stat. 2855, 2862.)

AMENDMENTS

1976—Pub. L. 94-581, § 202(d)(1), inserted ", nursing home," in the section catchline.

Subsec. (a). Pub. L. 94-581, §§ 202(d)(2), 210(a)(1)(A), (B), substituted "the Administrator determines" for "he determines" in the provisions preceding par. (1) and substituted "such veteran" for "he" and "necessary hospital or nursing home care" for "necessary hospital care" in subpar. (B) of par. (1).

Subsec. (b)(1). Pub. L. 94-581, § 210(a)(1)(C), substituted "such person" for "he".

Subsec. (b)(2). Pub. L. 94-581, §§ 202(d)(3), 210(a)(1)(B), substituted "a veteran who is in need of domiciliary care if such veteran" for "a veteran of any war or of service after January 31, 1955, who is in need of domiciliary care, if he".

Subsec. (c). Pub. L. 94-581, § 210(a)(1)(B), substituted "for which such veteran is hospitalized" for "for which he is hospitalized".

Subsec. (d). Pub. L. 94-581, § 202(d)(4), substituted "direct jurisdiction" for "direct and exclusive jurisdiction".

1973—Subsec. (a). Pub. L. 93-82, § 102(1), (2), extended the authority of the Administrator to furnish nursing home care, and in par. (1)(B), substituted "any veteran for a" for "a veteran of any war or of service after January 31, 1955, for".

Subsec. (c). Pub. L. 93-82, § 102(3), expanded the provision regarding medical services to include nursing home care and eliminated the requirement that the Administrator make a determination in each instance that the non-service-connected disability would be in the veteran's interest, would not prolong his hospitalization, and, would not interfere with the furnishing of hospital facilities to other veterans.

Subsec. (d). Pub. L. 93-82, § 102(4), added subsec. (d).

1970—Subsec. (a). Pub. L. 91-500 added cl. (4).

1966—Pub. L. 89-358 inserted in subsecs. (a)(1)(B) and (b)(2) "or of service after January 31, 1955," following "veteran of any war".

Subsec. (c). Pub. L. 89-785 added subsec. (c).

1962—Subsec. (a)(1). Pub. L. 87-583 provided for hospital care to any veteran for a service-connected disability instead of to a veteran of any war for a service-connected disability incurred or aggravated during a period of war in subpar. (A) and incorporated existing provisions in subpar. (B).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 612, 622, 903 of this title.

§ 611. Care during examinations and in emergencies

(a) The Administrator may furnish hospital care incident to physical examinations where such examinations are necessary in carrying out the provisions of other laws administered by the Administrator.

(b) The Administrator may furnish hospital care or medical services as a humanitarian service in emergency cases, but the Administrator shall charge for such care at rates prescribed by the Administrator.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1142; Pub. L. 94-581, title II, §§ 202(e), 210(a)(2), Oct. 21, 1976, 90 Stat. 2856, 2862.)

AMENDMENTS

1976—Pub. L. 94-581, § 202(e)(1), substituted "Care" for "Hospitalization" in the section catchline.

Subsec. (a). Pub. L. 94-581, § 210(a)(2)(A), substituted "administered by the Administrator" for "administered by him".

Subsec. (b). Pub. L. 94-581, §§ 202(e)(2), 210(a)(2)(B), substituted "hospital care or medical services" for "hospital care", "the Administrator shall charge" for "he shall charge", and "prescribed by the Administrator" for "prescribed by him".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 903 of this title.

§ 612. Eligibility for medical treatment

(a) Except as provided in subsection (b), the Administrator, within the limits of Veterans' Administration facilities, may furnish such medical services as the Administrator finds to be reasonably necessary to any veteran for a service-connected disability. The Administrator may also furnish to any such veteran such home health services as the Administrator finds to be necessary or appropriate for the effective and economical treatment of such disability (including only such improvements and structural alterations the cost of which does not exceed $2,500 (or reimbursement up to such amount) as are necessary to assure the continuation of treatment for such disability or to provide access to the home or to essential lavatory and sanitary facilities. In the case of any veteran discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty, such services may be so furnished for that disability, whether or not service-connected for the purposes of this chapter.

(b) Outpatient dental services and treatment, and related dental appliances, shall be furnished under this section only for a dental condition or disability—

(1) which is service-connected and compensable in degree;

(2) which is service-connected, but not compensable in degree, but only (A) if it is shown to have been in existence at time of discharge or release from active military, naval, or air service and (B) if application for treatment is made within one year after such discharge or release, except that if a disqualifying discharge or release has been corrected by competent authority application may be made within one year after the date of correction or the date of enactment of this exception, whichever is later;

(3) which is a service-connected dental condition or disability due to combat wounds or other service trauma, or of a former prisoner of war;

(4) which is associated with and is aggravating a disability resulting from some other disease or injury which was incurred in or aggravated by active military, naval, or air service;

(5) which is a non-service-connected condition or disability of a veteran for which treatment was begun while such veteran was receiving hospital care under this chapter and such services and treatment are reasonably necessary to complete such treatment; or

(6) from which a veteran of the Spanish-American War or Indian wars is suffering.

(c) Dental services and related appliances for a dental condition or disability described in clause (2) of subsection (b) of this section shall be furnished on a one-time completion basis, unless the services rendered on a one-time completion basis are found unacceptable within the limitations of good professional standards, in which event such additional services may be afforded as are required to complete professionally acceptable treatment.

(d) Dental appliances, wheelchairs, artificial limbs, trusses, special clothing, and similar appliances to be furnished by the Administrator under this section may be procured by the Administrator either by purchase or by manufacture, whichever the Administrator determines may be advantageous and reasonably necessary.

(e) Any disability of a veteran of the Spanish-American War or Indian Wars, upon application for the benefits of this section or outpatient medical services under section 624 of this title, shall be considered for the purposes thereof to be a service-connected disability incurred or aggravated in a period of war.

(f) The Administrator, within the limits of Veterans' Administration facilities, may furnish medical services for any disability on an outpatient or ambulatory basis—

(1) to any veteran eligible for hospital care under section 610 of this title (A) where such services are reasonably necessary in preparation for, or (to the extent that facilities are available) to obviate the need of, hospital admission, or (B) where such a veteran has been furnished hospital care and such medical services are reasonably necessary to complete treatment incident to such hospital care (for a period not in excess of twelve months after discharge from in-hospital treatment, except where the Administrator finds that a longer

period is required by virtue of the disability being treated); and

(2) to any veteran who has a service-connected disability rated at 50 per centum or more.

The Administrator may also furnish to any such veteran such home health services as the Administrator determines to be necessary or appropriate for the effective and economical treatment of a disability of a veteran (including only such improvements and structural alterations the cost of which does not exceed $600 (or reimbursement up to such amount) as are necessary to assure the continuation of treatment or provide access to the home or to essential lavatory and sanitary facilities).

(g) Where any veteran is in receipt of increased pension or additional compensation or allowance based on the need of regular aid and attendance or by reason of being permanently housebound, or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance, the Administrator, within the limits of Veterans' Administration facilities, may furnish the veteran such medical services as the Administrator finds to be reasonably necessary.

(h) The Administrator shall furnish to each veteran who is receiving additional compensation or allowance under chapter 11, or increased pension as a veteran of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era, by reason of being permanently housebound or in need of regular aid and attendance, such drugs and medicines as may be ordered on prescription of a duly licensed physician as specific therapy in the treatment of any illness or injury suffered by such veteran. The Administrator shall continue to furnish such drugs and medicines so ordered to any such veteran in need of regular aid and attendance whose pension payments have been discontinued solely because such veteran's annual income is greater than the applicable maximum annual income limitation, but only so long as such veteran's annual income does not exceed such maximum annual income limitation by more than $500.

(i) Not later than ninety days after the effective date of this subsection, the Administrator shall prescribe regulations to ensure that special priority in furnishing medical services under this section and any other outpatient care with funds appropriated for the medical care of veterans shall be accorded in the following order, unless compelling medical reasons require that such care be provided more expeditiously:

(1) To any veteran for a service-connected disability.

(2) To any veteran described in subsection (f)(2) of this section.

(3) To any veteran with a disability rated as service-connected.

(4) To any veteran being furnished medical services under subsection (g) of this section.

(j) In order to assist the Secretary of Health, Education, and Welfare in carrying out national immunization programs pursuant to other provisions of law, the Administrator may authorize the administration of immunizations to eligible veterans (voluntarily requesting such immunizations) in connection with the provision of care for a disability under this chapter in any Veterans' Administration health care facility, utilizing vaccine furnished by the Secretary at no cost to the Veterans' Administration, and for such purpose, notwithstanding any other provision of law, the Secretary is authorized to provide such vaccine to the Veterans' Administration at no cost and the provisions of section 4116 of this title shall apply to claims alleging negligence or malpractice on the part of Veterans' Administration personnel granted immunity under such section.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1142; Pub. L. 86-639, § 1, July 12, 1960, 74 Stat. 472; Pub. L. 87-377, § 1, Oct. 4, 1961, 75 Stat. 806; Pub. L. 87-583, § 2, Aug. 14, 1962, 76 Stat. 381; Pub. L. 88-430, Aug. 14, 1964, 78 Stat. 438; Pub. L. 88-450, § 7, Aug. 19, 1964, 78 Stat. 504; Pub. L. 88-664, § 8, Oct. 13, 1964, 78 Stat. 1096; Pub. L. 90-77, title II, § 203(b), Aug. 31, 1967, 81 Stat. 183; Pub. L. 91-102, Oct. 30, 1969, 83 Stat. 168; Pub. L. 91-500, §§ 2, 3, Oct. 22, 1970, 84 Stat. 1096; Pub. L. 91-588, §§ 4, 9(f), Dec. 24, 1970, 84 Stat. 1583, 1585; Pub. L. 93-82, title I, § 103(a), Aug. 2, 1973, 87 Stat. 180; Pub. L. 94-581, title I, § 103(a), title II, §§ 202(f), 210(a)(3), Oct. 21, 1976, 90 Stat. 2844, 2856, 2862.)

REFERENCES IN TEXT

The date of enactment of this exception, referred to in subsec. (b)(2), means the date of enactment of Pub. L. 88-430, approved Aug. 14, 1964.

The effective date of this subsection, referred to in subsec. (i), means the effective date of Pub. L. 94-581, which was Oct. 21, 1976.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-581, §§ 103(a)(1), 210(a)(3)(A), added provisions which authorized the Administrator to furnish such home health services as the Administrator finds to be necessary or appropriate for the effective and economical treatment of the disability (including only such improvements and structural alterations the cost of which does not exceed $2,500 (or reimbursement up to such amount) as are necessary to assure the continuation of treatment for the disability or to provide access to the home or to essential lavatory and sanitary facilities), and in the existing provisions substituted "as the Administrator finds" for "as he finds".

Subsec. (b). Pub. L. 94-581, § 103(a)(2), added par. (5) and redesignated former par. (5) as (6).

Subsec. (d). Pub. L. 94-581, § 210(a)(3)(B), substituted "procured by the Administrator" for "procured by him" and "whichever the Administrator determines" for "whichever he determines".

Subsec. (e). Pub. L. 94-581, § 202(f)(1), substituted "Indian Wars" for "Indian wars".

Subsec. (f). Pub. L. 94-581, §§ 103(a)(3) to (7), 202(f)(2), substituted "within the limits of Veterans' Administration facilities, may furnish" for "may also furnish" in the provisions preceding par. (1), substituted "or (to the extent that facilities are available) to obviate" for "or to obviate" in cl. (A) of par. (1), substituted "furnished" for "granted" in the existing provisions of cl. (B) of par. (1) and inserted "(for a period not in excess of twelve months after discharge from in-hospital treatment, except where the Administrator finds that a longer period is required by virtue of the disability being treated)" at the end thereof, substituted "50 per centum" for "80 per centum" in par. (2), and added, following par. (2), provision authorizing the Administrator to furnish to the veteran such home health services as the Administrator determines to be necessary or appropriate for the effective and

economical treatment of a disability of the veteran (including only such improvements and structural alterations the cost of which does not exceed $600 (or reimbursement up to such amount) as are necessary to assure the continuation of treatment or provide access to the home or to essential lavatory and sanitary facilities).

Subsec. (g). Pub. L. 94-581, §§ 202(f)(3), 210(a)(3)(C), inserted ", within the limits of Veterans' Administration facilities," following "the Administrator" and substituted "as the Administrator finds" for "as he finds".

Subsec. (h). Pub. L. 94-581, § 210(a)(3)(D), substituted "such veteran's annual income is greater" for "his annual income is greater" and "such veteran's annual income does not exceed" for "his annual income does not exceed".

Subsecs. (i), (j). Pub. L. 94-581, § 103(a)(8), added subsecs. (i) and (j).

1973—Subsec. (f). Pub. L. 93-82 substituted provisions relating to the furnishing of medical services for any disability on an outpatient or ambulatory basis to veterans eligible for hospital care where such services are necessary in preparation for, or to obviate the need of, hospital admission, or where such veteran has been granted hospital care and such medical services are reasonably necessary to complete treatment incident to such hospital care and to veterans who have a service-connected disability rated at 80 per centum or more for provisions relating to the furnishing of medical services for a non-service connected disability where such care is reasonably necessary in preparation for admission of a veteran who has been determined to need hospital care and who has been scheduled for admission, where a veteran has been granted hospital care, and outpatient care is reasonably necessary to complete treatment incident to such hospital care, and where a veteran of any war has a total disability permanent in nature resulting from a service-connected disability.

1970—Subsec. (g). Pub. L. 91-500, § 2, extended the authority of the Administrator to furnish medical services as he finds necessary to veterans permanently housebound or receiving pension or compensation based on need of regular aid and attendance and eliminated conditions limiting such medical care to veterans hospitalized or suffering from one or more of the six specific conditions or diseases enumerated.

Subsec. (h). Pub. L. 91-588 inserted reference to the Mexican border period and authorized the Administrator to continue furnishing drugs and medicine so ordered by any veteran in need of regular aid and attendance whose pension payments have been discontinued solely because his annual income is greater than the applicable maximum annual income limitation, but only so long as his annual income does not exceed such maximum annual income limitation by more than $500.

Pub. L. 91-500, § 3, authorized the furnishing of drugs and medicines to veterans receiving additional compensation or allowance or increased pension by reason of being "permanently housebound".

1969—Subsec. (f). Pub. L. 91-102 added par. (3).

1967—Subsec. (h). Pub. L. 90-77 imposed the obligation of furnishing drugs and medicines on the Administrator and extended such medical benefits to veterans receiving additional compensation under chapter 11 and veterans of the Vietnam era.

1964—Subsec. (b)(2). Pub. L. 88-430 permitted an application for treatment to be made within one year after a disqualifying discharge or release has been corrected, or the date of enactment of this exception, whichever is later. See References in Text note above.

Subsec. (g). Pub. L. 88-450 added subsec. (g).

Subsec. (h). Pub. L. 88-664 added subsec. (h).

1962—Subsec. (a). Pub. L. 87-583 provided for medical service to any veteran for a service-connected disability instead of to a veteran of any war, to a veteran discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty, or to a person who is in receipt of, but for the receipt of retirement pay would be entitled to, disability compensation.

1961—Subsec. (b)(5). Pub. L. 87-377 inserted "or Indian wars" following "Spanish-American War."

Subsec. (e). Pub. L. 87-377 inserted "or Indian wars" following "Spanish-American War".

1960—Subsec. (f). Pub. L. 86-639 added subsec. (f).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581 set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-588 effective Jan. 1, 1971, see section 10(a) of Pub. L. 91-588, set out as an Effective Date of 1970 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-664 effective Jan. 1, 1965, see section 11 of Pub. L. 88-664, set out as an Effective Date of 1964 Amendment note under section 503 of this title.

ANNUAL REPORT TO CONGRESS ON RESULTS OF REGULATIONS PRESCRIBED TO CARRY OUT SPECIAL PRIORITIES IN FURNISHING MEDICAL SERVICES

Section 103(b) of Pub. L. 94-581 provided that: "Not later than one year after the effective date of this section [Oct. 21, 1976], and annually thereafter, the Administrator shall report to the Congress on the results of the regulations prescribed to carry out the amendment (adding section 612(i) of title 38, United States Code) made by subsection (a)(8) of this section."

NOTIFICATION TO ELIGIBLE INDIVIDUALS OF EXPANDED CARE AND SERVICES AVAILABLE AS RESULT OF AMENDMENTS BY VETERANS OMNIBUS HEALTH CARE ACT OF 1976

Section 117(b) of Pub. L. 94-581 provided that the Administrator, not later than ninety days after Oct. 21, 1976, take all appropriate steps to ensure that each individual eligible for new or expanded services as a result of the amendments made by the Veterans Omnibus Health Care Act of 1976 (Pub. L. 94-581) was personally notified about his or her eligibility and the way to secure care and services and required the Administrator to send copies of all notification forms to the appropriate House and Senate committees, along with a description of how the forms were distributed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 601, 618, 632, 5001 of this title.

§ 613. Medical care for survivors and dependents of certain veterans

(a) The Administrator is authorized to provide medical care, in accordance with the provisions of subsection (b) of this section, for—

(1) the wife or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability, and

(2) the widow or child of a veteran who (A) died as a result of a service-connected disabil-

ity, or (B) at the time of death had a total disability permanent in nature, resulting from a service-connected disability,

who are not otherwise eligible for medical care under chapter 55 of title 10 (CHAMPUS).

(b) In order to accomplish the purposes of subsection (a) of this section, the Administrator shall provide for medical care in the same or similar manner and subject to the same or similar limitations as medical care is furnished to certain dependents and survivors of active duty and retired members of the Armed Forces under chapter 55 of title 10 (CHAMPUS), by—

(1) entering into an agreement with the Secretary of Defense under which the Secretary shall include coverage for such medical care under the contract, or contracts, the Secretary enters into to carry out such chapter 55, and under which the Administrator shall fully reimburse the Secretary for all costs and expenditures made for the purposes of affording the medical care authorized pursuant to this section; or

(2) contracting in accordance with such regulations as the Administrator shall prescribe for such insurance, medical service, or health plans as the Administrator deems appropriate.

In cases in which Veterans' Administration medical facilities are particularly equipped to provide the most effective care and treatment, the Administrator is also authorized to carry out such purposes through the use of such facilities not being utilized for the care of eligible veterans.

(Added Pub. L. 93-82, title I, § 103(b), Aug. 2, 1973, 87 Stat. 181, and amended Pub. L. 94-581, title I, § 104, title II, § 210(a)(4), Oct. 21, 1976, 90 Stat. 2845 2862.)

PRIOR PROVISIONS

A prior section 613, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1143, which related to fitting and training in use of prosthetic appliances, was repealed by section 103(b) of Pub. L. 93-82, and is now covered by section 614(a) of this title.

AMENDMENTS

1976—Subsec. (a)(2). Pub. L. 94-581, § 104, designated existing provisions as cl. (A) and added cl. (B).

Subsec. (b)(1). Pub. L. 94-581, § 210(a)(4)(A), substituted "the Secretary enters" for "he enters".

Subsec. (b)(2). Pub. L. 94-581, § 210(a)(4)(B), substituted "the Administrator" for "he" in two places.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE

Section effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 601, 5202, 5220, 5221, of this title.

§ 614. Fitting and training in use of prosthetic appliances; seeing-eye dogs

(a) Any veteran who is entitled to a prosthetic appliance shall be furnished such fitting and training, including institutional training, in the use of such appliance as may be necessary, whether in a Veterans' Administration facility or other training institution, or by outpatient treatment, including such service under contract, and including necessary travel expenses to and from such veteran's home to such hospital or training institution.

(b) The Administrator may provide seeing-eye or guide dogs trained for the aid of the blind to veterans who are entitled to disability compensation, and may pay all necessary travel expenses to and from their homes and incurred in becoming adjusted to such seeing-eye or guide dogs. The Administrator may also provide such veterans with mechanical or electronic equipment for aiding them in overcoming the handicap of blindness.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1143; Pub. L. 93-82, title I, § 103(b), Aug. 2, 1973, 87 Stat. 181; Pub. L. 94-581, title II, § 210(a)(5), Oct. 21, 1976, 90 Stat. 2862.)

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (a) of this section were classified to section 613 of this title prior to repeal thereof by section 103(b) of Pub. L. 93-82.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-581, § 210(a)(5)(A), substituted "such veteran's home" for "his home".

Subsec. (b). Pub. L. 94-581, § 210(a)(5)(B), substituted "and may pay" for "and he may pay".

1973—Subsec. (a). Pub. L. 93-82 designated existing provisions as subsec. (b), and added subsec. (a).

Subsec. (b). Pub. L. 93-82 designated existing provisions as subsec. (b).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1973 Amendment note under section 111 of this title.

EFFECTIVE DATE

Section effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

§ 615. Tobacco for hospitalized veterans

The Administrator may furnish tobacco to veterans receiving hospital or domiciliary care.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1143.)

§ 616. Hospital care by other agencies of the United States

When so specified in an appropriation or other Act, the Administrator may make allotments and transfers to the Departments of Health, Education, and Welfare (Public Health Service), the Army, Navy, Air Force, or Interior, for disbursement by them under the various headings of their appropriations, of such amounts as are necessary for the care and treatment of veterans entitled to hospitalization from the Veterans' Administration under this chapter. The amounts to be charged the Veterans' Administration for care and treat-

ment of veterans in hospitals shall be calculated on the basis of a per diem rate approved by the Office of Management and Budget.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1143; Pub. L. 94-581, title II, § 202(g), Oct. 21, 1976, 90 Stat. 2856.)

AMENDMENTS

1976—Pub. L. 94-581 substituted "Office of Management and Budget" for "Bureau of the Budget".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

§ 617. Invalid lifts and other devices

The Administrator may furnish an invalid lift, or any type of therapeutic or rehabilitative device, as well as other medical equipment and supplies (excluding medicines), if medically indicated, to any veteran who is receiving (1) compensation under subsections 314(*l*)-(p) (or the comparable rates provided pursuant to section 334) of this title, or (2) pension under chapter 15 of this title by reason of being in need of regular aid and attendance.

(Added Pub. L. 86-211, § 5, Aug. 29, 1959, 73 Stat. 435, and amended Pub. L. 88-450, § 6(a), (c), Aug. 19, 1964, 78 Stat. 504; Pub. L. 90-77, title I, § 109, Aug. 31, 1967, 81 Stat. 180; Pub. L. 90-493, § 3(a), Aug. 19, 1968, 82 Stat. 809.)

AMENDMENTS

1968—Pub. L. 90-493 substituted "Invalid lifts and other devices" for "Invalid lifts and other devices for pensioners" in the catchline, and added provisions authorizing the Administrator to furnish lifts and other devices to any veteran who is receiving compensation under subsections 314(*l*)-(p) (or the comparable rates provided pursuant to section 334) of this title.

1967—Subsec. (b). Pub. L. 90-77 substituted "to any veteran in receipt of pension under chapter 15 of this title based on need of regular aid and attendance" for "to any veteran who is eligible to receive an invalid lift under subsection (a) of this section, or who would be so eligible, but for the fact that he has such a lift".

1964—Pub. L. 88-450 inserted words "and other devices" in the catchline, designated existing provisions of section as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

EFFECTIVE DATE

Section effective July 1, 1960, see section 10 of Pub. L. 86-211, set out as an Effective Date of 1959 Amendment note under sectin 521 of this title.

§ 618. Therapeutic and rehabilitative activities

(a) In providing rehabilitative services under this chapter, the Administrator, upon the recommendation of the Chief Medical Director, may utilize the services of patients and members in Veterans' Administration health care facilities for therapeutic and rehabilitative purposes, at nominal remuneration, and such patients and members shall not under these circumstances be held or considered as employees of the United States for any purpose. The Administrator shall prescribe the conditions for the utilization of such services.

(b)(1) In furnishing rehabilitative services under this chapter, the Administrator, upon the recommendation of the Chief Medical Director, may enter into contractual arrangements with private industry or other sources outside the Veterans' Administration to provide for therapeutic work for remuneration for patients and members in Veterans' Administration health care facilities.

(2) Notwithstanding any other provision of law, the Administrator may also furnish rehabilitative services under this subsection through contractual arrangements with nonprofit entities to provide for such therapeutic work for such patients. The Administrator shall establish appropriate fiscal, accounting, management, recordkeeping, and reporting requirements with respect to the activities of any such nonprofit entity in connection with such contractual arrangements.

(c)(1) There is hereby established in the Treasury of the United States a revolving fund known as the Veterans' Administration Special Therapeutic and Rehabilitation Activities Fund (hereinafter in this section referred to as the "fund") for the purpose of carrying out the provisions of subsection (b) of this section. Such amounts of the fund as the Administrator may determine to be necessary to establish and maintain operating accounts for the various rehabilitative services activities may be deposited in checking accounts in other depositaries selected or established by the Administrator.

(2) All funds received by the Veterans' Administration under contractual arrangements made under subsection (b) of this section, or by nonprofit entities described in paragraph (2) of such subsection, shall be deposited in or credited to the fund, and the Administrator shall pay out of the fund moneys to participants at rates not less than the wage rates specified in the Fair Labor Standards Act (29 U.S.C. 201 et seq.) and regulations prescribed thereunder for work of similar character.

(3) The Chief Medical Director shall prepare, for inclusion in the annual report submitted to Congress under section 214 of this title, a description of the scope and achievements of activities carried out under this section (including pertinent data regarding productivity and wage rates) during the prior twelve months and an estimate of the needs of the program of therapeutic and rehabilitation activities to be carried out under this section for the ensuing fiscal year.

(d) In providing rehabilitative services under this chapter, the Administrator shall take appropriate action to make it possible for the patient to take maximum advantage of any benefits to which such patient is entitled under chapter 31, 34, or 35 of this title, and, if the patient is still receiving treatment of a prolonged nature under this chapter, the provision of rehabilitative services under this chapter shall be continued during, and coordinated with, the pursuit of education and training under such chapter 31, 34, or 35.

(e) The Administrator shall prescribe regulations to ensure that the priorities set forth in

section 612(i) of this title shall be applied, insofar as practicable, to participation in therapeutic and rehabilitation activities carried out under this section.

(Added Pub. L. 87-574, § 2(1), Aug. 6, 1962, 76 Stat. 308, and amended Pub. L. 94-581, title I, § 105(a), Oct. 21, 1976, 90 Stat. 2845.)

REFERENCES IN TEXT

The Fair Labor Standards Act, referred to in subsec. (c)(2), is act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, which is classified principally to chapter 8 (§ 201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables volume.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-581, § 105(a)(1), (2), designated existing provisions as subsec. (a) and, in subsec. (a) as so designated, substituted "In providing rehabilitative services under this chapter, the" for "The" and "health care facilities" for "hospitals and domiciliaries".

Subsecs. (b) to (e). Pub. L. 94-581, § 105(a)(3), added subsecs. (b) to (e).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581 set out as an Effective Date of 1976 Amendment note under section 111 of this title.

SETTLEMENT OF CLAIMS

Section 105(b) of Pub. L. 94-581 provided that:

"(1) The Administrator is authorized to settle claims made by the Veterans' Administration against any private nonprofit corporation organized under the laws of any State, for the use of Veterans' Administration facilities and personnel in work projects as a part of a therapeutic or rehabilitation program for patients and members in Veterans' Administration health care facilities, and to execute a binding release of all claims by the United States against any such corporation, in such amounts, and upon such terms and conditions as the Administrator deems appropriate.

"(2) For the purposes of this subsection, notwithstanding section 484 of title 31, or any other provision of law, the Administrator may utilize any funds received under any settlement made pursuant to paragraph (1) of this subsection for any purpose agreed upon by the Administrator and such corporation."

§ 619. Repair or replacement of certain prosthetic and other appliances

The Administrator may repair or replace any artificial limb, truss, brace, hearing aid, spectacles, or similar appliance (not including dental appliances) reasonably necessary to a veteran and belonging to such veteran which was damaged or destroyed by a fall or other accident caused by a service-connected disability for which such veteran is in receipt of, or but for the receipt of retirement pay would be entitled to, disability compensation.

(Added Pub. L. 87-850, § 1(a), Oct. 23, 1962, 76 Stat. 1126, and amended Pub. L. 94-581, title II, § 210(a)(6), Oct. 21, 1976, 90 Stat. 2862.)

AMENDMENTS

1976—Pub. L. 94-581 substituted "belonging to such veteran" for "belonging to him".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE

Section 2 of Pub. L. 87-850 provided that: "The amendment made by this Act [adding this section] shall apply only with respect to the repair or replacement of artificial limbs, trusses, braces, hearing aids, spectacles, and similar devices damaged or destroyed after the date of enactment of this Act [Oct. 23, 1962]."

§ 620. Transfers for nursing home care

(a) Subject to subsection (b) and except as provided in subsection (e) of this section, the Administrator may transfer—

(1) Any veteran who has been furnished care by the Administrator in a hospital under the direct jurisdiction of the Administrator, and

(2) Any person (A) who has been furnished care in any hospital of any of the Armed Forces, (B) who the appropriate Secretary concerned has determined has received maximum hospital benefits but requires a protracted period of nursing home care, and (C) who upon discharge therefrom will become a veteran

to any public or private institution not under the jurisdiction of the Administrator which furnishes nursing home care, for care at the expense of the United States, only if the Administrator determines that—

(i) such veteran has received maximum benefits from such care in such hospital, but will require a protracted period of nursing home care which can be furnished in such institution, and

(ii) the cost of such nursing home care in such institution will not exceed 45 per centum of the cost of care furnished by the Veterans' Administration in a general hospital under the direct and exclusive jurisdiction of the Administrator, as such cost may be determined annually by the Administrator, or not to exceed 50 per centum of such cost where determined necessary by the Administrator, upon recommendation of the Chief Medical Director, to provide adequate care.

Nursing home care may not be furnished pursuant to this section at the expense of the United States for more than six months in the aggregate in connection with any one transfer, except (I) in the case of the veteran whose hospitalization was primarily for a service-connected disability, or (II) where in the judgment of the Administrator a longer period is warranted in the case of any other veteran. Any veteran who is furnished care by the Administrator in a hospital in Alaska or Hawaii may be furnished nursing home care under the provisions of this section even if such hospital is not under the direct jurisdiction of the Administrator.

(b) No veteran may be transferred or admitted to any institution for nursing home care under this section, unless such institution is determined by the Administrator to meet such standards as the Administrator may prescribe. The standards prescribed and any report of inspection of institutions furnishing care to veterans under this section made by or for the Administrator shall, to the extent possible, be

made available to all Federal, State, and local agencies charged with the responsibility of licensing or otherwise regulating or inspecting such institutions.

(c) In applying the provisions of section 2(b)(1) of the Service Contract Act of 1965 with respect to any contract entered into under this section to provide nursing home care of veterans, the payment of wages not less than those specified in section 6(b) of the Fair Labor Standards Act of 1938, as amended, shall be deemed to constitute compliance with such provisions.

(d) Subject to subsection (b) of this section, the Administrator may authorize for any veteran requiring nursing home care for a service-connected disability direct admission for such care at the expense of the United States to any public or private institution not under the jurisdiction of the Administrator which furnishes nursing home care. Such admission may be authorized upon determination of need therefor by a physician employed by the Veterans' Administration or, in areas where no such physician is available, carrying out such function under contract or fee arrangement based on an examination by such physician. The amount which may be paid for such care and the length of care available under this subsection shall be the same as authorized under subsection (a) of this section.

(e) For the purposes of this section, the term "nursing home care" includes intermediate care, as determined by the Administrator in accordance with regulations which the Administrator shall prescribe. The cost of intermediate care for purposes of payment by the United States pursuant to subsection (a)(ii) of this section shall be determined by the Administrator except that the rate of reimbursement shall be commensurately less than that provided for nursing home care (as defined in section 101(28) of this title).

(Added Pub. L. 88-450, § 2(a), Aug. 19, 1964, 78 Stat. 500, and amended Pub. L. 90-429, July 26, 1968, 82 Stat. 446; Pub. L. 90-612, §§ 1, 3, Oct. 21, 1968, 82 Stat. 1202; Pub. L. 91-101, Oct. 30, 1969, 83 Stat. 167; Pub. L. 93-82, title I, § 104, Aug. 2, 1973, 87 Stat. 182; Pub. L. 94-581, title I, § 106, title II, §§ 202(h), 210(a)(7), Oct. 21, 1976, 90 Stat. 2847, 2856, 2863.)

REFERENCES IN TEXT

Section 2(b)(1) of the Service Contract Act of 1965, referred to in subsec. (c), is classified to section 351(b)(1) of Title 41, Public Contracts.

Section 6(b) of the Fair Labor Standards Act of 1938, referred to in subsec. (c), is classified to section 206(b) of Title 29, Labor.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-581, §§ 106(1) to (3), 202(h), inserted "and except as provided in subsection (e)" after "subsection (b)" in the provisions preceding par. (1), substituted "direct jurisdiction" for "direct and exclusive jurisdiction" in par. (1), substituted "45 per centum" for "40 per centum" and "annually" for "from time to time" in cl. (ii) and added ", or not to exceed 50 per centum of such cost where determined necessary by the Administrator, upon recommendation of the Chief Medical Director, to provide adequate care" at the end thereof, and substituted "direct jurisdiction" for "direct and exclusive jurisdiction" in the provisions following cl. (ii).

Subsec. (b). Pub. L. 94-581, § 210(a)(7), substituted "such standards as the Administrator may prescribe" for "such standards as he may prescribe".

Subsec. (e). Pub. L. 94-581, § 106(4), added subsec. (e).

1973—Subsec. (a). Pub. L. 93-82, § 104(a), (b), designated cls. (1) and (2) as (i) and (ii), respectively, and in the provisions preceding cl. (i) as so designated, substituted authority of the Administrator to transfer veterans and other persons under pars. (1) and (2), for authority of the Administrator to transfer veterans who have been furnished care by the Administrator in a hospital under the direct and exclusive jurisdiction of the Administrator, to any public or private institution not under the jurisidction of the Administrator which furnishes nursing home care for care at the expense of the United States, and in the provisions following cl. (ii) as so designated, substituted designations (I) and (II) for designations (A) and (B).

Subsec. (b). Pub. L. 93-82, § 104(c), added provisions relating to the admissions of veterans to institutions for nursing home care and for the furnishing of standards and reports to Federal, State and local agencies charged with the responsibility of licensing or otherwise regulating or inspecting such institutions.

Subsec. (d). Pub. L. 93-82, § 104(d), added subsec. (d).

1969—Subsec. (a). Pub. L. 91-101 added the provision authorizing the furnishing of nursing home care for more than six months in the aggregate in connection with any one transfer in the case of a veteran whose hospitalization was primarily for a service-connected disability.

1968—Subsec. (a). Pub. L. 90-612, § 1, authorized the furnishing of nursing home care to veterans who are being furnished care by the Administrator in hospitals in Alaska or Hawaii even if the hospitals involved are not under the direct and exclusive jurisdiction of the Administrator.

Subsec. (a)(2). Pub. L. 90-429 substituted "40 per centum" for "one-third".

Subsec. (c). Pub. L. 90-612, § 3, added subsec. (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 610, 624, 632, 642, 5001, 5034 of this title.

SUBCHAPTER III—MISCELLANEOUS PROVISIONS RELATING TO HOSPITAL AND NURSING HOME CARE AND MEDICAL TREATMENT OF VETERANS

AMENDMENTS

1976—Pub. L. 94-581, title II, § 202(i), Oct. 21, 1976, 90 Stat. 2856, inserted "and Nursing Home" in the subchapter heading.

§ 621. Power to make rules and regulations

The Administrator shall prescribe—

(1) such rules and procedure governing the furnishing of hospital, nursing home, and domiciliary care as the Administrator may deem proper and necessary;

(2) limitations in connection with the furnishing of hospital, nursing home, and domiciliary care; and

(3) such rules and regulations as the Administrator deems necessary in order to promote

good conduct on the part of persons who are receiving hospital, nursing home, or domiciliary care in Veterans' Administration facilities.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1143; Pub. L. 94-581, title II, §§ 202(j), 210(a)(8), Oct. 21, 1976, 90 Stat. 2856, 2863.)

AMENDMENTS

1976—Cl. (1). Pub. L. 94-581, §§ 202(j), 210(a)(8), substituted "hospital, nursing home, and domiciliary care as the Administrator may deem" for "hospital and domiciliary care as he may deem".

Cl. (2). Pub. L. 94-581, § 202(j), substituted "hospital, nursing home, and domiciliary care" for "hospital and domiciliary care".

Cl. (3). Pub. L. 94-581, §§ 202(j), 210(a)(8), substituted "as the Administrator deems" for "as he deems" and "hospital, nursing home, or domiciliary care" for "hospital or domiciliary care".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

§ 622. Statement under oath

(a) For the purposes of section 610(a)(1)(B), section 610(b)(2), section 624(c), and section 632(a)(2) of this title, the statement under oath of an applicant on such form as may be prescribed by the Administrator shall be accepted as sufficient evidence of inability to defray necessary expenses.

(b) Notwithstanding the provisions of subsection (a) of this section, the receipt of pension under any law administered by the Veterans' Administration shall constitute sufficient evidence of inability to defray necessary expenses, and any veteran in receipt of such pension shall be exempt from making any statement under oath regarding such veteran's inability to defray necessary expenses.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1144; Pub. L. 89-612, § 1, Sept. 30, 1966, 80 Stat. 859; Pub. L. 91-500, § 1, Oct. 22, 1970, 84 Stat. 1096; Pub. L. 94-581, title II, §§ 202(k), 210(a)(9), Oct. 21, 1976, 90 Stat. 2856, 2863.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-581, § 202(k), substituted "610(a)(1)(B)" for "610(a)(1)" and "632(a)(2)" for "632(b)".

Subsec. (b). Pub. L. 94-581, § 210(a)(9), substituted "such veteran's inability" for "his inability".

1970—Pub. L. 91-500 designated existing provisions as subsec. (a) and added subsec. (b).

1966—Pub. L. 89-612 inserted reference to section 632(b) of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

§ 623. Furnishing of clothing

The Administrator shall not furnish clothing to persons who are in Veterans' Administration facilities, except (1) where the furnishing of such clothing to indigent persons is necessary to protect health or sanitation, and (2) where the Administrator furnishes veterans with special clothing made necessary by the wearing of prosthetic appliances.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1144; Pub. L. 94-581, title II, § 210(a)(10), Oct. 21, 1976, 90 Stat. 2863.)

AMENDMENTS

1976—Pub. L. 94-581 substituted "the Administrator furnishes" for "he furnishes".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

§ 624. Hospital care and medical services abroad

(a) Except as provided in subsections (b) and (c), the Administrator shall not furnish hospital or domiciliary care or medical services outside any State.

(b) The Administrator may furnish necessary hospital care and medical services to any otherwise eligible veteran for any service-connected disability if the veteran (1) is a citizen of the United States sojourning or residing abroad, or (2) is in the Republic of the Philippines.

(c) Within the limits of those facilities of the Veterans Memorial Hospital at Manila, Republic of the Philippines, for which the Administrator may contract, the Administrator may furnish necessary hospital care to a veteran for any non-service-connected disability if such veteran is unable to defray the expenses of necessary hospital care. The Administrator may enter into contracts to carry out this section.

(d) The Administrator may furnish nursing home care, on the same terms and conditions set forth in section 620(a) of this title and at the same rate as specified in section 632(a)(4) of this title, to any veteran who has been furnished hospital care in the Philippines pursuant to this section, but who requires a protracted period of nursing home care.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1144; Pub. L. 86-152, Aug. 11, 1959, 73 Stat. 332; Pub. L. 86-624, § 25(a), July 12, 1960, 74 Stat. 418; Pub. L. 87-815, § 4, Oct. 15, 1962, 76 Stat. 927; Pub. L. 93-82, title I, § 108, Aug. 2, 1973, 87 Stat. 186; Pub. L. 94-581, title II, §§ 202(l), 210(a)(11), Oct. 21, 1976, 90 Stat. 2856, 2863.)

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-581 substituted "the Administrator may furnish" for "he may furnish" and "hospital care to a veteran for any" for "hospital care to a veteran of any war for any".

1973—Pub. L. 93-82 inserted "nursing home care" in the section catchline and added subsec. (d).

1962—Subsec. (b). Pub. L. 87-815 deleted "temporarily" preceding "sojourning".

1960—Subsec. (a). Pub. L. 86-624 substituted "outside any State" for "outside the continental limits of the United States, or a Territory, Commonwealth, or possession of the United States".

1959—Subsec. (b). Pub. L. 86-152 extended the authority to provide hospital and medical care for veterans who are United States citizens temporarily residing abroad to include those with peacetime service-incurred disabilities.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as a note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 612, 622 of this title.

[§ 625. Repealed. Pub. L. 93-43, § 4(b), June 18, 1973, 87 Stat. 79]

Section, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1144; Pub. L. 91-24, § 6(a), June 11, 1969, 83 Stat. 34, related to arrests for crimes in hospital and domiciliary reservations, and is now covered by section 218 of this title.

EFFECTIVE DATE OF REPEAL

Section repealed effective June 18, 1973, see section 10(a) of Pub. L. 93-43, set out as an Effective Date note under section 1000 of this title.

§ 626. Reimbursement for loss of personal effects by natural disaster

The Administrator shall, under regulations which the Administrator shall prescribe, reimburse veterans in Veterans' Administration hospitals and domiciliaries for any loss of personal effects sustained by fire while such effects were stored in designated locations in Veterans' Administration hospitals or domiciliaries.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1144; Pub. L. 93-82, title I, § 105, Aug. 2, 1973, 87 Stat. 183; Pub. L. 94-581, title II, § 210(a)(12), Oct. 21, 1976, 90 Stat. 2863.)

AMENDMENTS

1976—Pub. L. 94-581 substituted "the Administrator shall prescribe" for "he shall prescribe".

1973—Pub. L. 93-82 substituted "natural disaster" for "fire" in the section catchline and extended reimbursement provisions to earthquake and other natural disasters also.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Jan. 1, 1971, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

§ 627. Persons eligible under prior law

Persons who have a status which would, under the laws in effect on December 31, 1957, entitle them to the medical services, hospital and domiciliary care, and other benefits, provided for in this chapter, but who do not meet the service requirements contained in this chapter, shall be entitled to such benefits notwithstanding failure to meet such service requirements.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1144; Pub. L. 94-581, title II, § 202(m), Oct. 21, 1976, 90 Stat. 2856.)

AMENDMENTS

1976—Pub. L. 94-581 substituted "1957" for "1958".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

§ 628. Reimbursement of certain medical expenses

(a) The Administrator may, under such regulations as the Administrator shall prescribe, reimburse veterans entitled to hospital care or medical services under this chapter for the reasonable value of such care or services (including necessary travel), for which such veterans have made payment, from sources other than the Veterans' Administration, where—

(1) such care or services were rendered in a medical emergency of such nature that delay would have been hazardous to life or health;

(2) such care or services were rendered to a veteran in need thereof (A) for an adjudicated service-connected disability, (B) for a nonservice-connected disability associated with and held to be aggravating a service-connected disability, (C) for any disability of a veteran who has a total disability permanent in nature from a service-connected disability, or (D) for any illness, injury, or dental condition in the case of a veteran who is found to be (i) in need of vocational rehabilitation under chapter 31 of this title and for whom an objective had been selected or (ii) pursuing a course of vocational rehabilitation training and is medically determined to have been in need of care or treatment to make possible such veteran's entrance into a course of training, or prevent interruption of a course of training, or hasten the return to a course of training which was interrupted because of such illness, injury, or dental condition; and

(3) Veterans' Administration or other Federal facilities were not feasibly available, and an attempt to use them beforehand would not have been reasonable, sound, wise, or practical.

(b) In any case where reimbursement would be in order under subsection (a) of this section, the Administrator may, in lieu of reimbursing such veteran, make payment of the reasonable value of care or services directly—

(1) to the hospital or other health facility furnishing the care or services; or

(2) to the person or organization making such expenditure on behalf of such veteran.

(Added Pub. L. 93-82, title I, § 106(a), Aug. 2, 1973, 87 Stat. 183, and amended Pub. L. 94-581, title II, §§ 202(n), 210(13), Oct. 21, 1976, 90 Stat. 2856, 2863.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-581 substituted "as the Administrator shall prescribe" for "as he shall prescribe" in the provisions preceding par. (1), substituted "delay" for "they" in par. (1), and substituted "make possible such veteran's entrance" for "make possible his entrance" in par. (2)(D)(ii).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an

Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1971, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

SUBCHAPTER IV—HOSPITAL AND MEDICAL CARE FOR COMMONWEALTH OF THE PHILIPPINES ARMY VETERANS

§ 631. Assistance to the Republic of the Philippines

The President is authorized to assist the Republic of the Philippines in providing medical care and treatment for Commonwealth Army veterans and new Philippine Scouts in need of such care and treatment for service-connected disabilities and non-service-connected disabilities under certain conditions.

(Added Pub. L. 93-82, title I, § 107(a), Aug. 2, 1973, 87 Stat. 184.)

PRIOR PROVISIONS

A prior section 631, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1145; Pub. L. 91-24, § 6(b), June 11, 1969, 83 Stat. 34, also dealing with grants to the Republic of the Philippines, was repealed by section 107(a) of Pub. L. 93-82.

EFFECTIVE DATE

Section effective July 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

§ 632. Contracts and grants to provide hospital care, medical services and nursing home care

(a) The President, with the concurrence of the Republic of the Philippines, may authorize the Administrator to enter into a contract with the Veterans Memorial Hospital, with the approval of the appropriate department of the Government of the Republic of the Philippines, covering the period beginning on July 1, 1973, and ending on June 30, 1978, under which the United States—

(1) will pay for hospital care in the Republic of the Philippines, or for medical services which shall be provided either in the Veterans Memorial Hospital, or by contract, or otherwise by the Administrator in accordance with the conditions and limitations applicable generally to beneficiaries under section 612 of this title, for Commonwealth Army veterans and new Philippine Scouts determined by the Administrator to be in need of such hospital care or medical services for service-connected disabilities;

(2) will pay for hospital care at the Veterans Memorial Hospital for Commonwealth Army veterans, and for new Philippine Scouts if they enlisted before July 4, 1946, determined by the Administrator to need such care for non-service-connected disabilities if they are unable to defray the expenses of necessary hospital care;

(3) may provide for the payment of travel expenses pursuant to section 111 of this title for Commonwealth Army veterans and new Philippine Scouts in connection with hospital care or medical services furnished them;

(4) may provide for payments for nursing home care, on the same terms and conditions as set forth in section 620(a) of this title, for any Commonwealth Army veteran or new Philippine Scout determined to need such care at a per diem rate not to exceed 50 per centum of the hospital per diem rate established pursuant to clause (6) of this subsection;

(5) may provide that payments for hospital care and for medical services provided to Commonwealth Army veterans and new Philippine Scouts or to United States veterans may consist in whole or in part of available medicines, medical supplies, and equipment furnished by the Administrator to the Veterans Memorial Hospital at valuations therefor as determined by the Administrator, who may furnish through the revolving supply fund, pursuant to section 5011 of this title, such medicines, medical supplies, and equipment as necessary for this purpose and to use therefore, as applicable, appropriations available for such payments;

(6) will provide for payments for such hospital care at a per diem rate to be jointly determined for each fiscal year by the two Governments to be fair and reasonable; and

(7) may stop payments under any such contract upon reasonable notice as stipulated by the contract if the Republic of the Philippines and the Veterans Memorial Hospital fail to maintain such hospital in a well-equipped and effective operating condition, as determined by the Administrator.

(b) The total of the payments authorized by subsection (a) of this section shall not exceed $2,000,000 for any one fiscal year ending before July 1, 1978, which shall include an amount not to exceed $250,000 for any one such fiscal year for the purposes of clause (4) of such subsection.

(c) The contract authorized by subsection (a) of this section may provide for the use by the Republic of the Philippines of beds, equipment, and other facilities of the Veterans Memorial Hospital at Manila, not required for hospital care of Commonwealth Army veterans or new Philippine Scouts for service-connected disabilities, for hospital care of other persons in the discretion of the Republic of the Philippines except that (1) priority of admission and retention in such hospital shall be accorded Commonwealth Army veterans and new Philippine Scouts needing hospital care for service-connected disabilities, and (2) such use shall not preclude the use of available facilities in such hospital on a contract basis for hospital care or medical services for persons eligible therefor from the Veterans' Administration.

(d) To further assure the effective care and treatment of patients in the Veterans Memorial Hospital, there is authorized to be appropriated for each fiscal year during the five years beginning July 1, 1973, and ending June 30, 1978—

(1) the sum of $50,000 to be used by the Administrator for making grants to the Veterans Memorial Hospital for the purpose of education and training of health service personnel who are assigned to such hospital; and

(2) the sum of $50,000 to be used by the Administrator for making grants to the Veterans Memorial Hospital for the purpose of assisting the Republic of the Philippines in the re-

placement and upgrading of equipment and in rehabilitating the physical plant and facilities of such hospital.

Such grants shall be made on such terms and conditions as prescribed by the Administrator, including approval by the Administrator of all eduction and training programs conducted by the hospital under such grants. Any appropriation made for carrying out the purposes of clause (2) of this subsection shall remain available until expended.

(Added Pub. L. 93-82, title I, § 107(a), Aug. 2, 1973, 87 Stat. 184, and amended Pub. L. 94-581, title II, § 210(a)(14), Oct. 21, 1976, 90 Stat. 2863.)

PRIOR PROVISIONS

A prior section 632, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1146; Pub. L. 88-40, §§ 1, 2, June 13, 1963, 77 Stat. 66; Pub. L. 89-612, § 2, Sept. 30, 1966, 80 Stat. 859; Pub. L. 91-24, § 6(c), June 11, 1969, 83 Stat. 34, relating to modification of agreement with the Republic of the Philippines effectuating the Act of July 1, 1948, was repealed by section 107(a) of Pub. L. 93-82.

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-581 substituted "approval by the Administrator" for "approved by him".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE

Section effective July 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

SAVINGS PROVISIONS

Section 107(c) of Pub. L. 93-82 provided that: "Nothing in subsection (a) of this section [which enacted this section and section 631 of this title] shall be deemed to affect in any manner any right, cause, obligation, contract (specifically including that contract executed April 25, 1967, between the Government of the Republic of the Philippines and the Government of the United States resulting from Public Law 89-612 [see Prior Provisions note above], which shall remain in force and effect until modified or superseded by an agreement executed under authority of this Act) [for distribution of this Act, see Short Title of 1973 Amendments note under section 101 of this title], authorization of appropriation, grant, function, power, or duty vested by law or otherwise under the provisions of section 632 of title 38, United States Code, in effect on the day before the date of enactment of this section [Aug. 2, 1973]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 622, 624 of this title.

§ 633. Supervision of program by the President

The President, or any officer of the United States to whom the President may delegate his authority under this section, may from time to time prescribe such rules and regulations and impose such conditions on the receipt of financial aid as may be necessary to carry out this subchapter.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1146; Pub. L. 94-581, title II, § 210(a)(15), Oct. 21, 1976, 90 Stat. 2863.)

AMENDMENTS

1976—Pub. L. 94-581 substituted "whom the President may delegate authority" for "whom he may delegate the authority".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EX. ORD. NO. 11762. DELEGATION OF AUTHORITY TO ADMINISTRATOR OF VETERANS' AFFAIRS RELATING TO GRANTS-IN-AID TO REPUBLIC OF THE PHILIPPINES FOR MEDICAL CARE AND TREATMENT OF VETERANS

Ex. Ord. No. 11762, Jan. 17, 1974, 39 F.R. 2347, provided:

By virtue of the authority vested in me by section 633 of title 38 and by section 301 of title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. (a) Subject to the provisions of subsections (b) and (c) of this section, the Administrator of Veterans' Affairs is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority vested in the President by sections 631, 632, 633, and 634 of title 38 of the United States Code, as amended by section 107(a) of the Veterans Health Care Expansion Act of 1973 (Public Law 93-82; Stat. 184).

(b) The Secretary of State shall negotiate the agreement, and any modifications thereby with the Republic of the Philippines required by the provisions of sections 631, 632, 633, and 634 of title 38 of the United States Code.

(c) All rules and regulations prescribed by the Administrator pursuant to the authority delegated to him by this order shall be subject to prior approval by the Director of the Office of Management and Budget.

SEC. 2. Nothing in this order shall be construed as modifying or terminating any other authority heretofore delegated by the President to the Administrator of Veterans' Affairs.

RICHARD NIXON.

§ 634. Definitions

For the purposes of this subchapter—

(1) The term "Commonwealth Army veterans" means persons who served before July 1, 1946, in the organized military forces of the Government of the Philippines, while such forces were in the service of the Armed Forces pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, and who were discharged or released from such service under conditions other than dishonorable. The term "new Philippine Scouts" means persons who served in the Philippine Scouts under section 14 of the Armed Forces Voluntary Recruitment Act of 1945, and who were discharged or released from such service under conditions other than dishonorable.

(2) The term "service-connected disabilities" means disabilities determined by the Administrator under laws administered by the Veterans' Administration to have been incurred in or aggravated by the service described in paragraph (1) in line of duty.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1146; Pub. L. 89-612, § 3, Sept. 30, 1966, 80 Stat. 861.)

REFERENCES IN TEXT

Section 14 of the Armed Forces Voluntary Recruitment Act of 1945, referred to in par. (1), is section 14 of act Oct. 6, 1945, ch. 393, 59 Stat. 543, which enacted section 637 of former Title 10, Army and Air Force, and was omitted from the Code in the revision and reenactment of Title 10, Armed Forces, by act Aug. 10, 1956, ch. 1041, 70A Stat. 1.

AMENDMENTS

1966—Par. (1). Pub. L. 89-612 added the definition of "new Philippine Scouts".

SUBCHAPTER V—PAYMENTS TO STATE HOMES

§ 641. Criteria for payment

(a) The Administrator shall pay each State at the per diem rate of—

(1) $5.50 for domiciliary care,

(2) $10.50 for nursing home care, and

(3) $11.50 for hospital care,

for each veteran receiving such care in a State home, if such veteran is eligible for such care in a Veterans' Administration facility.

(b) In no case shall the payments made with respect to any veteran under this section exceed one-half of the cost of the veterans' care in such State home.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1146; Pub. L. 86-625, July 12, 1960, 74 Stat. 424; Pub. L. 87-819, § 1, Oct. 15, 1962, 76 Stat. 935; Pub. L. 88-450, § 3(a), Aug. 19, 1964, 78 Stat. 500; Pub. L. 90-432, § 1, July 26, 1968, 82 Stat. 448; Pub. L. 91-178, § 1, Dec. 30, 1969, 83 Stat. 836; Pub. L. 93-82, title IV, § 403(a), Aug. 2, 1973, 87 Stat. 196; Pub. L. 94-417, § 1(a), Sept. 21, 1976, 90 Stat. 1277; Pub. L. 94-581, title II, § 202(*o*), Oct. 21, 1976, 90 Stat. 2856.)

AMENDMENTS

1976—Pub. L. 94-581 struck out "of any war or of service after January 31, 1955" following "for each veteran" in the provisions following par. (3).

Pub. L. 94-417 designated existing provisions as subsec. (a) and, as so designated, increased from $4.50 to $5.50 the per diem rate for domiciliary care, from $6 to $10.50 the per diem rate for nursing home care, and from $10 to $11.50 the per diem rate for hospital care, struck out "of any war or of service after January 31, 1955" following "for each veteran", ", in the case of such a veteran receiving domiciliary or hospital care," following "if", and provisions relating to the case of a veteran receiving nursing home care, and added subsec. (b).

1973—Pub. L. 93-82 increased from $3.50 to $4.50 the per diem rate for domiciliary care, from $5 to $6 the per diem rate for nursing home care, and from $7.50 to $10 the per diem rate for hospital care, and substituted "veteran of any war or of service after January 31, 1955" for "veteran of any war".

1969—Pub. L. 91-178 increased from $3.50 to $7.50 the per diem payment for hospital care.

1968—Pub. L. 90-432 increased from $2.50 to $3.50 the per diem rate for hospital or domiciliary care and from $3.50 to $5.00 the per diem rate for nursing home care as the amounts the Administrator shall pay each State providing such services for veterans.

1964—Pub. L. 88-450 amended section generally and, among other changes, authorized payment at the per diem rate of $3.50 for each veteran receiving nursing care in a State home, if such veteran meets the requirements of paragraph (1), (2), or (3) of section 610(a) of this title, except that the requirement in clause (B) of such paragraph (1) shall, for this purpose, refer to the inability to defray the expenses of necessary nursing home care, and eliminated provisions which permitted reduction of the amount payable to the State homes under certain conditions and prohibited payments to State homes where a bar or canteen is maintained therein where intoxicating liquors are sold.

1962—Subsec. (b). Pub. L. 87-819 provided that no reduction shall be made by the retention or collection by a State home of amounts from the estate of a deceased veteran if such amounts are placed in a post or other special fund for the benefit of the State home or its inhabitants in providing the benefits enumerated in clauses (A) to (C).

1960—Subsec. (a). Pub. L. 86-625 substituted "at the per diem rate of $2.50 per diem for each veteran" for "at the annual rate of $700.00 for each veteran".

EFFECTIVE DATE OF 1976 AMENDMENTS

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

Section 1(c) of Pub. L. 94-417 provided that:

"(1) The amendments made by subsection (a) of this section [amending this section] shall be effective on October 1, 1976.

"(2) At the time of the first payment to a State under section 641 of title 38, United States Code, as amended by subsection (a) of this section, the Administrator of Veterans' Affairs shall pay such State, in a lump sum, an amount equal to the difference between the total amount paid each such State under such section 641 for care provided by such State in a State home from January 1, 1976, to October 1, 1976, and the amount such State would have been paid for providing such care if the amendment made by subsection (a) of this section had been effective on January 1, 1976."

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 3(c) of Pub. L. 88-450 provided that: "The amendment made by this section [to this section] shall take effect on January 1, 1965; except that subsection (b) of section 641 of title 38, United States Code, as in effect immediately before such date, shall remain in effect with respect to any amounts retained or collected by any State home before such date."

PAYMENTS TO STATES FOR NURSING HOME CARE

Section 3(b) of Pub. L. 88-450 provided that: "No payment shall be made to any State home solely by reason of the amendment made by this section [to this section] on account of nursing home care furnished any veteran except where such care is furnished the veteran by the State home for the first time after the effective date of this section [Jan. 1, 1965]."

§ 642. Inspections of such homes; restrictions on beneficiaries

(a) The Administrator may inspect any State home at such times as the Administrator deems necessary. No payment or grant may be made to any home under this subchapter unless such home is determined by the Administrator to meet such standards as the Administrator shall prescribe, which standards with respect to nursing home care shall be no less stringent than those prescribed pursuant to section 620(b) of this title.

(b) The Administrator may ascertain the number of persons on account of whom payments may be made under this subchapter on account of any State home, but shall have no authority over the management or control of any State home.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1146; Pub. L. 94-581, title I, § 107(a), title II, § 210(a)(16), Oct. 21, 1976, 90 Stat. 2847, 2863.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-581 substituted "as the Administrator deems necessary" for "as he deems necessary" in the existing provisions and added provision that no payment or grant may be made to any home under this subchapter unless such home is determined by the Administrator to meet such standards as the Administrator shall prescribe, which standards with respect to nursing home care shall be no less stringent than those prescribed pursuant to section 620(b) of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

§ 643. Applications

Payments on account of any veteran of any war cared for in a State home shall be made under this subchapter only from the date the Administrator receives a request for determination of such veteran's eligibility; however, if such request is received by the Administrator within ten days after care of such veteran begins, payments shall be made on account of such veteran from the date care began.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1147.)

§ 644. Authorization of appropriations

(a) There is hereby authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1970, and a like sum for each of the nine succeeding fiscal years. Subject to the conditions set forth in subsection (b) of this section, sums appropriated pursuant to this section shall be used for making grants to States which have submitted, and have had approved by the Administrator, applications for assistance in remodeling, modification, or alteration of existing hospital or domiciliary facilities in State homes providing care and treatment for veterans.

(b) The amount which may be granted to a State home for purposes of subsection (a) shall not exceed 65 per centum of the estimated cost of the project, nor may any one State receive in any fiscal year more than 20 per centum of the amount appropriated for that fiscal year.

(c) Grants under this section shall be made on such terms and conditions prescribed in regulations by the Administrator.

(d) Sums appropriated pursuant to subsection (a) of this section shall remain available until the end of the second fiscal year following the fiscal year for which they are appropriated.

(Added Pub. L. 91-178, § 2(a), Dec. 30, 1969, 83 Stat. 836, and amended Pub. L. 93-82, title IV, § 403(b), Aug. 2, 1973, 87 Stat. 196.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93-82 substituted "65 per centum" for "50 per centum".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

SUBCHAPTER VI—SICKLE CELL ANEMIA

§ 651. Screening, counseling, and medical treatment

The Administrator is authorized to carry out a comprehensive program of providing sickle cell anemia screening, counseling, treatment, and information under the provisions of this chapter.

(Added Pub. L. 93-82, title I, § 109(a), Aug. 2, 1973, 87 Stat. 186.)

EFFECTIVE DATE

Section effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

§ 652. Research

The Administrator is authorized to carry out research and research training in the diagnosis, treatment, and control of sickle cell anemia based upon the screening examinations and treatment provided under this subchapter.

(Added Pub. L. 93-82, title I, § 109(a), Aug. 2, 1973, 87 Stat. 186.)

EFFECTIVE DATE

Section effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

§ 653. Voluntary participation; confidentiality

(a) The participation by any person in any program or portion thereof under this subchapter shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program under this title.

(b) Patient records prepared or obtained under this subchapter shall be held confidential in the same manner and under the same conditions prescribed in section 4132 of this title.

(Added Pub. L. 93-82, title I, § 109(a), Aug. 2, 1973, 87 Stat. 187, and amended Pub. L. 94-581, title I, § 111(b), Oct. 21, 1976, 90 Stat. 2852.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-581 substituted "Patient records prepared or obtained under this subchapter shall be held confidential in the same manner and under the same conditions prescribed in section 4132 of this title "for" The Administrator shall promulgate rules and regulations to insure that all information and patient records prepared or obtained under this subchapter shall be held confidential except for (1) such information as the patient (or his guardian) requests in writing to be released or (2) statistical data compiled without reference to patient names or other identifying characteristics".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE

Section effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

§ 654. Reports

The Administrator shall include in the annual report to the Congress required by section 214 of this title a comprehensive report on the administration of this subchapter, including such recommendations for additional legislation as the Administrator deems necessary.

(Added Pub. L. 93-82, title I, § 109(a), Aug. 2, 1973, 87 Stat. 187.)

EFFECTIVE DATE

Section effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

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781. Replacement of surrendered and expired insurance.
782. Administrative cost.
783. Settlements for minors or incompetents.
784. Suits on insurance.
785. Decisions by the Administrator.
786. Deposits in and disbursements from trust funds.
787. Penalties.
788. Savings provision.

AMENDMENTS

1974—Pub. L. 93-289, §§ 2(b), 9(b), May 24, 1974, 88 Stat. 165, 172, added items 777, 778 and 779, and substituted "Veterans' Special Life Insurance" for "Veterans' special term insurance" in item 723.

1971—Pub. L. 92-188, § 3, Dec. 15, 1971, 85 Stat. 645, substituted "Payment or use of dividends" for "Dividends to pay premiums" in item 707.

1970—Pub. L. 91-291, § 7, June 25, 1970, 84 Stat. 331, substituted "Duration and termination of coverage; conversion" for "Termination of coverage; conversion" in item 768.

1965—Pub. L. 89-214, § 2, Sept. 29, 1965, 79 Stat. 886 redesignated "Subchapter III—General" as "Subchapter IV—General" and added "Subchapter III—Servicemen's Group Life Insurance" comprising items 765 to 776.

1964—Pub. L. 88-664, § 12(c), Oct. 13, 1964, 78 Stat. 1099, added item 725.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 101, 106, 3101 of this title.

SUBCHAPTER I—NATIONAL SERVICE LIFE INSURANCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 50 App. section 540.

§ 701. Definitions

For the purposes of this subchapter—

(1) The term "insurance" means National Service Life Insurance.

(2) The terms "widow" or "widower" mean a person who was the lawful spouse of the insured at the maturity of the insurance.

(3) The term "child" means a legitimate child, an adopted child, and, if designated as beneficiary by the insured, a stepchild or an illegitimate child.

(4) The terms "parent", "father", and "mother" mean a father, mother, father through adoption, mother through adoption, persons who have stood in loco parentis to a member of the military or naval forces at any time before entry into active service for a

period of not less than one year, and a stepparent, if designated as beneficiary by the insured.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1148.)

§ 702. Premium rates and policy values

Premium rates for insurance shall be the net rates based upon the American Experience Table of Mortality and interest at the rate of 3 per centum per annum. All cash, loan, paid-up, and extended values, and all other calculations in connection with insurance, shall be based upon said American Experience Table of Mortality and interest at the rate of 3 per centum per annum.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1148.)

§ 703. Amount of insurance

Insurance shall be issued in any multiple of $500 and the amount of insurance with respect to any one person shall be not less than $1,000 or more than $10,000. No person may carry a combined amount of National Service Life Insurance and United States Government life insurance in excess of $10,000 at any one time. The limitations of this section shall not apply to the additional paid up insurance the purchase of which is authorized under section 707 of this title.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1148; Pub. L. 92-188, § 1, Dec. 15, 1971, 85 Stat. 645.)

Amendments

1971—Pub. L. 92-188 made section limitations inapplicable to the additional paid up insurance purchase of which is authorized under section 707 of this title.

Effective Date of 1971 Amendment

Amendment by Pub. L. 92-188 effective on a date established by the Administrator but in no event later than first day of first calendar month beginning more than six calendar months after Dec. 15, 1971, see section 4 of Pub. L. 92-188, set out as an Effective Date of 1971 Amendment note under section 707 of this title.

§ 704. Plans of insurance

(a) Insurance may be issued on the following plans: Five-year level premium term, ordinary life, twenty-payment life, thirty-payment life, twenty-year endowment, endowment at age sixty, and endowment at age sixty-five. Level premium term insurance may be converted as of the date when any premium becomes or has become due, or exchanged as of the date of the original policy, upon payment of the difference in reserve, at any time while such insurance is in force and within the term period to any of the foregoing permanent plans of insurance, except that conversion to an endowment plan may not be made while the insured is totally disabled.

(b) Under such regulations as the Administrator may promulgate a policy of participating insurance may be converted to or exchanged for insurance issued under this subsection on a modified life plan. Insurance issued under this subsection shall be on the same terms and conditions as the insurance which it replaces, except (1) the premium rates for such insurance shall be based on the 1958 Commissioners Standard Ordinary Basic Table of Mortality and interest at the rate of 3 per centum per annum; (2) all cash, loan, paid-up, and extended values shall be based on the 1958 Commissioners Standard Ordinary Basic Table of Mortality and interest at the rate of 3 per centum per annum; and (3) at the end of the day preceding the sixty-fifth birthday of the insured the face value of the modified life insurance policy or the amount of extended term insurance thereunder shall be automatically reduced by one-half thereof, without any reduction in premium.

(c) Under such regulations as the Administrator may promulgate, a policy of nonparticipating insurance may be converted to or exchanged for insurance issued under this subsection on a modified life plan. Insurance issued under this subsection shall be on the same terms and conditions as the insurance which it replaces, except that (1) term insurance issued under section 621 of the National Service Life Insurance Act of 1940 shall be deemed for the purposes of this subsection to have been issued under section 723(b) of this title; and (2) at the end of the day preceding the sixty-fifth birthday of the insured the face value of the modified life insurance policy or the amount of extended term insurance thereunder shall be automatically reduced by one-half thereof, without any reduction in premium. Any person eligible for insurance under section 722(a), or section 725 of this title may be granted a modified life insurance policy under this subsection which, subject to exception (2) above, shall be issued on the same terms and conditions specified in section 722(a) or section 725, whichever is applicable.

(d) Any insured whose modified life insurance policy is in force by payment or waiver of premiums on the day before his sixty-fifth birthday may upon written application and payment of premiums made before such birthday be granted National Service Life Insurance, on an ordinary life plan, without physical examination, in an amount of not less than $500, in multiples of $250, but not in excess of one-half of the face amount of the modified life insurance policy in force on the day before his sixty-fifth birthday. Insurance issued under this subsection shall be effective on the sixty-fifth birthday of the insured. The premium rate, cash, loan, paid-up, and extended values on the ordinary life insurance issued under this subsection shall be based on the same mortality tables and interest rates as the insurance issued under the modified life policy. Settlements on policies involving annuities on insurance issued under this subsection shall be based on the same mortality or annuity tables and interest rates as such settlements on the modified life policy. If the insured is totally disabled on the day before his sixty-fifth birthday and premiums on his modified life insurance policy are being waived under section 712 of this title or he is entitled on that date to waiver under such section he shall be automatically granted the maximum amount of insurance authorized under this subsection and premiums on such insurance shall be waived during the continuous total disability of the insured.

(e) On and after the effective date of this subsection and under such regulations as the Administrator may promulgate, insurance may be

converted to or exchanged for insurance on a modified life plan under the same terms and conditions as are set forth in subsections (b) and (c) of this section except that at the end of the day preceding the seventieth birthday of the insured the face value of the modified life insurance policy or the amount of extended insurance thereunder shall be automatically reduced by one-half thereof, without any reduction in premium. Any insured whose modified life insurance policy issued under this subsection is in force by payment or waiver of premiums on the day before his seventieth birthday may be granted insurance on the ordinary life plan upon the same terms and conditions as are set forth in subsection (d) of this section except that in applying such provisions the seventieth birthday is to be substituted for the sixty-fifth birthday. Notwithstanding any other provision of law or regulations the Administrator under such terms and conditions as he determines to be reasonable and practicable and upon written application and payment of the required premiums, reserves, or other necessary amounts made within one year from the effective date of this subsection by an insured having in force a modified life plan issued under subsections (b) or (c) of this section, including any replacement insurance issued under subsection (d) of this section or other provision of this title, can exchange such insurance without proof of good health for an amount of insurance issued under this subsection equal to the insurance then in force or which was in force on the day before such insured's sixty-fifth birthday, whichever is the greater.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1148; Pub. L. 88-664, § 12(b), Oct. 13, 1964, 78 Stat. 1098; Pub. L. 92-193, Dec. 15, 1971, 85 Stat. 648.)

REFERENCES IN TEXT

Section 621 of the National Service Life Insurance Act of 1940, referred to in subsec. (c), is section 621 of act Oct. 8, 1940, ch. 757, title VI, pt. I, as added Apr. 25, 1951, ch. 39, pt. II, § 10, 65 Stat. 36, which was repealed and the provisions thereof reenacted as section 723 of this title by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1105.

The effective date of this subsection, referred to in subsec. (e), means the effective date of Pub. L. 92-193, which is the first day of the first calendar month beginning more than six calendar months after Dec. 15, 1971, see Pub. L. 92-193, set out in part as an Effective Date of 1971 Amendment note below.

AMENDMENTS

1971—Subsec. (e). Pub. L. 92-193 added subsec. (e).

1964—Pub. L. 88-664 designated existing provisions as subsec. (a) and added subsecs. (b) to (d).

EFFECTIVE DATE OF 1971 AMENDMENT

Pub. L. 92-193 provided in part that enactment of subsec. (e) of this section by Pub. L. 92-193 shall be effective the first day of the first calendar month which begins more than six calendar months after Dec. 15, 1971.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-664 effective as of the first day of the first calendar month which begins more than 6 calendar months after Oct. 13, 1964, see section 12(d) of Pub. L. 88-664, set out as an Effective Date note under section 725 of this title.

§ 705. Renewal

All level premium term policies, except as otherwise provided in this section, shall cease and terminate at the expiration of the term period. At the expiration of any term period any five-year level premium term policy which has not been exchanged or converted to a permanent plan of insurance and which is not lapsed shall be renewed as level premium term insurance without application for a successive five-year period at the premium rate for the attained age without medical examination. However, renewal will be effected in cases where the policy is lapsed only if the insured makes application for reinstatement and renewal of his term policy within five years after the date of lapse, and reinstatement in such cases shall be under the terms and conditions prescribed by the Administrator. In any case in which the insured is shown by evidence satisfactory to the Administrator to be totally disabled at the expiration of the level premium term period of this insurance under conditions which would entitle him to continued insurance protection but for such expiration, his insurance, if subject to renewal under this section, shall be automatically renewed for an additional period of five years at the premium rate for the then attained age, unless the insured has elected insurance on some other available plan.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1148; Pub. L. 91-291, § 8, June 25, 1970, 84 Stat. 331.)

AMENDMENTS

1970—Pub. L. 91-291 made it a requirement for renewal of lapsed policies that the insured make application for reinstatement and renewal of his term policy within five years after the date of lapse and struck out provision that the lapse occur within two months before the expiration of the term period.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-291 effective June 25, 1970, see section 14(a) of Pub. L. 91-291, set out as an Effective Date of 1970 Amendment note under section 417 of this title.

§ 706. Policy provisions

Provisions for cash, loan, paid-up, and extended values, dividends from gains and savings, refund of unearned premiums, and such other provisions as may be found to be reasonable and practicable may be provided for in the policy of insurance from time to time by regulations promulgated by the Administrator.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1149.)

§ 707. Payment or use of dividends

(a) Until and unless the Veterans' Administration has received from the insured a request or directive in writing exercising any other dividend option allowable under his policy, any dividend accumulations and unpaid dividends shall be applied in payment of premiums becoming due on insurance subsequent to the date the dividend is payable after January 1, 1952.

(b) No claim by an insured for payment in cash of a special dividend declared prior to January 1, 1952, shall be processed by the Veterans' Administration unless such claim was re-

ceived within six years after such dividend was declared. Whenever any claim for payment of a special dividend, the processing of which is barred by this subsection, is received in the Veterans' Administration, it shall be returned to the claimant, with a copy of this subsection, and such action shall be a complete response without further communication.

(c) The Administrator, upon application in writing made by the insured for insurance under this subsection, and without proof of good health, is authorized to apply any dividend due and payable on national service life insurance after the date of such application to purchase paid up insurance. Also, the Administrator, upon application in writing made by the insured within six calendar months after the effective date of this subsection, and without proof of good health, is authorized to apply any national service life insurance dividend credits and deposits of such insured existing at the date of his application to purchase paid up insurance. Any dividends, dividend credits, or deposits on endowment policies may be used under this subsection only to purchase additional paid up endowment insurance which matures concurrently with the basic policy. Any dividends, dividend credits, or deposits on policies (other than endowment policies) may be used under this section only to purchase additional paid up whole life insurance. The paid up insurance granted under this subsection shall be in addition to any insurance otherwise authorized under this title, or under prior provisions of law. The paid up insurance granted under this subsection shall be issued on the same terms and conditions as are contained in the standard policies of national service life insurance except (1) the premium rates for such insurance and all cash and loan values thereon shall be based on such table of mortality and rate of interest per annum as may be prescribed by the Administrator; (2) the total disability income provision authorized under section 715 of this title may not be added to insurance issued under this section; and (3) the insurance shall include such other changes in terms and conditions as the Administrator determines to be reasonable and practicable.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1149; Pub. L. 91–291, § 9, June 25, 1970, 84 Stat. 331; Pub. L. 92–188, § 2, Dec. 15, 1971, 85 Stat. 645.)

REFERENCES IN TEXT

For effective date of this subsection, referred to in subsec. (c), see Effective Date of 1971 Amendment note set out below.

AMENDMENTS

1971—Pub. L. 92-188, § 2(3), substituted "Payment or use of dividends" for "Dividends to pay premiums" as section heading.

Subsec. (a). Pub. L. 92-188, § 2(1), substituted "or directive in writing exercising any other dividend option allowable under his policy" for "in writing for payment in cash".

Subsec. (c). Pub. L. 92-188, § 2(2), added subsec. (c).

1970—Pub. L. 91-291 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1971 AMENDMENT

Section 4 of Pub. L. 92-188 provided that: "The amendments made by this Act [amending section heading and subsec. (a) and enacting subsec. (c) of this section and amending sections 703 and 741 of this title] shall take effect on a date established by the Administrator but in no event later than the first day of the first calendar month which begins more than six calendar months after the date of enactment of this Act. [Dec. 15, 1971]."

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-291 effective June 25, 1970, see section 14(a) of Pub. L. 91-291, set out as an Effective Date of 1970 Amendment note under section 417 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 703, 741 of this title.

§ 708. Premium payments

The Administrator shall, by regulations, prescribe the time and method of payment of the premiums on insurance, but payments of premiums in advance shall not be required for periods of more than one month each, and may at the election of the insured be deducted from his active-service pay or be otherwise made. An amount equal to the first premium due under a National Service Life Insurance policy may be advanced from current appropriations for active-service pay to any person in the active service in the Army, Navy, Air Force, Marine Corps, or Coast Guard, which amount shall constitute a lien upon any service or other pay accruing to the person for whom such advance was made and shall be collected therefrom if not otherwise paid. No disbursing or certifying officer shall be responsible for any loss incurred by reason of such advance. Any amount so advanced in excess of available service or other pay shall constitute a lien on the policy within the provisions of section 3101(b) of this title.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1149.)

§ 709. Effective date of insurance

Insurance may be made effective, as specified in the application, not later than the first day of the calendar month following the date of application therefor, but the United States shall not be liable thereunder for death occurring before such effective date.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1149.)

§ 710. Incontestability

Subject to the provisions of section 711 of this title all contracts or policies of insurance heretofore or hereafter issued, reinstated, or converted shall be incontestable from the date of issue, reinstatement, or conversion except for fraud, nonpayment of premium, or on the ground that the applicant was not a member of the military or naval forces of the United States. However, in any case in which a contract or policy of insurance is canceled or voided after March 16, 1954, because of fraud, the Administrator shall refund to the insured, if living, or, if deceased, to the person designated as beneficiary (or if none survives, to the estate of the insured) all money, without interest, paid as premiums on such contract or policy for any period subsequent to two years after the date such fraud induced the Veterans' Administration to issue, reinstate, or convert

such insurance less any dividends, loan, or other payment made to the insured under such contract or policy.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1149.)

§ 711. Forfeiture

Any person guilty of mutiny, treason, spying, or desertion, or who, because of conscientious objections, refuses to perform service in the Armed Forces of the United States or refuses to wear the uniform of such force, shall forfeit all rights to National Service Life Insurance. No insurance shall be payable for death inflicted as a lawful punishment for crime or for military or naval offense, except when inflicted by an enemy of the United States; but the cash surrender value, if any, of such insurance on the date of such death shall be paid to the designated beneficiary, if living, or otherwise to the beneficiary or beneficiaries within the permitted class in accordance with the order specified in section 716(b) of this title.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1150.)

Section Referred to in Other Sections

This section is referred to in section 710 of this title.

§ 712. Total disability waiver

(a) Upon application by the insured and under such regulations as the Administrator may promulgate, payment of premiums on insurance may be waived during the continuous total disability of the insured, which continues or has continued for six or more consecutive months, if such disability began (1) after the date of his application for insurance, (2) while the insurance was in force under premium-paying conditions, and (3) before the insured's sixty-fifth birthday. Notwithstanding any other provision of this chapter, in any case in which the total disability of the insured commenced on or after his sixtieth birthday but before his sixty-fifth birthday, the Administrator shall not grant waiver of any premium becoming due prior to January 1, 1965.

(b) The Administrator, upon any application made after August 1, 1947, shall not grant waiver of any premium becoming due more than one year before the receipt in the Veterans' Administration of application for the same, except as provided in this section. Any premiums paid for months during which waiver is effective shall be refunded. The Administrator shall provide by regulations for examination or reexamination of an insured claiming benefits under this section, and may deny benefits for failure to cooperate. If it is found that an insured is no longer totally disabled, the waiver of premiums shall cease as of the date of such finding and the policy of insurance may be continued by payment of premiums as provided in said policy. In any case in which the Administrator finds that the insured's failure to make timely application for waiver of premiums or his failure to submit satisfactory evidence of the existence or continuance of total disability was due to circumstances beyond his control, the Administrator may grant waiver or continuance of waiver of premiums.

(c) If the insured dies without filing application for waiver, the beneficiary, within one year after the death of the insured, or, if the beneficiary is insane or a minor, within one year after removal of such legal disability, may file application for waiver with evidence of the insured's right to waiver under this section. Premium rates shall be calculated without charge for the cost of waiver of premiums provided in this section and no deduction from benefits otherwise payable shall be made on account thereof.

(d) In any case in which an insured has been denied or would have been denied premium waiver under section 602(n) of the National Service Life Insurance Act of 1940 or this section solely because he became totally disabled between the date of valid application for insurance and the subsequent effective date thereof, and in which it is shown that (1) the total disability was incurred in line of duty between October 8, 1940, and July 31, 1946, inclusive, or June 27, 1950, and April 30, 1951, inclusive, and (2) the insured remained continuously so totally disabled to the date of death or the date of enactment of this subsection, whichever is earlier, the Administrator may grant waiver of premiums from the beginning of and during the continuous total disability of such insured. Application for waiver of premiums under this subsection must be filed by the insured or, in the event of his death, by the beneficiary within two years after the date of enactment of this subsection, except that if the insured or the beneficiary be insane or a minor within the two-year period, application for such waiver may be filed within two years after removal of such legal disability, or if an insane insured shall die before the removal of the disability, application may be filed by the beneficiary within two years after the insured's death. No insurance shall be placed in force under this subsection in any case in which there was an award of benefits under the Servicemen's Indemnity Act of 1951 or of gratuitous insurance under section 722(b) of this title. The amount of insurance placed in force hereunder together with any other United States Government life insurance or national service life insurance in force at the time of death, or at the time of the insured's application for waiver hereunder, may not exceed $10,000 and shall be reduced by the amount of any gratuitous insurance awarded under the National Service Life Insurance Act of 1940. Waiver of premiums under this subsection shall render the insurance nonparticipating during the period such premium waiver is in effect. The cost of waiver of premium and death benefits paid as a result of this subsection shall be borne by the United States.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1150; Pub. L. 86–497, June 8, 1960, 74 Stat. 164; Pub. L. 88–364, July 7, 1964, 78 Stat. 302.)

References in Text

The date of enactment of this subsection, referred to in subsec. (d), means the date of enactment of Pub. L. 86–497, which was approved on June 8, 1960.

The Servicemen's Indemnity Act of 1951, referred to in subsec. (d), is act Apr. 25, 1951, ch. 39, pt. I, 65 Stat. 33, as amended, which was classified generally to subchapter II (§ 851 et seq.) of chapter 13 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and was repealed by act Aug. 1, 1956, ch. 873, title V, § 502(9), 70 Stat. 886.

The National Service Life Insurance Act of 1940, referred to in subsec. (d), is act Oct. 8, 1940, ch. 757, title VI, pt. I, §§ 601 to 623, 54 Stat. 1008, as amended, which was classified generally to subchapter I (§§ 801 to 824) of chapter 13 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed by Pub. L. 85-857, § 14(75), Sept. 2, 1958, 72 Stat. 1272, and the provisions thereof reenacted generally as this subchapter by the first section of Pub. L. 85-857 which enacted Title 38, Veterans' Benefits. Section 602(n) of the 1940 Act, also referred to in subsec. (d), is now covered by this section.

AMENDMENTS

1964—Subsec. (a). Pub. L. 88-364 extended from age 60 to age 65 the age before which a person must become totally disabled to be eligible for waiver of premiums, and provided that where total disability commenced on or after the 60th birthday but before the 65th, the Administrator shall not waive premiums becoming due prior to Jan. 1, 1965.

1960—Subsec. (d). Pub. L. 86-497 added subsec. (d).

EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88-364 provided in part that amendment by Pub. L. 88-364 shall be effective Jan. 1, 1965.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 704, 713, 722 of this title.

§ 713. Death before six months' total disability

Whenever premiums are not waived under section 712 of this title solely because the insured died prior to the continuance of total disability for six months, and proof of such facts, satisfactory to the Administrator, is filed by the beneficiary with the Veterans' Administration within one year after the insured's death, his insurance shall be deemed to be in force at the date of his death, and the unpaid premiums shall become a lien against the proceeds of his insurance. If the beneficiary is insane or a minor, proof of such facts may be filed within one year after removal of such legal disability.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1150.)

§ 714. Statutory total disabilities

Without prejudice to any other cause of disability, the permanent loss of the use of both feet, of both hands, or of both eyes, or of one foot and one hand, or of one foot and one eye, or of one hand and one eye, or the total loss of hearing of both ears, or the organic loss of speech, shall be deemed total disability for insurance purposes.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1151.)

§ 715. Total disability income provision

The Administrator shall, except as hereinafter provided, upon application by the insured and proof of good health satisfactory to the Administrator and payment of such extra premium as the Administrator shall prescribe, include in any National Service Life Insurance policy on the life of the insured (except a policy issued under section 620 of the National Service Life Insurance Act of 1940, or section 722 of this title) provisions whereby an insured who is shown to have become totally disabled for a period of six consecutive months or more commencing after the date of such application and before attaining the age of sixty-five and while the payment of any premium is not in default, shall be paid monthly disability benefits from the first day of the seventh consecutive month of and during the continuance of such total disability of $10 for each $1,000 of such insurance in effect when such benefits become payable. The total disability provision authorized under this section shall not be issued unless application therefor is made either prior to the insured's fifty-fifth birthday, or before the insured's sixtieth birthday and prior to January 1, 1966. The total disability provision authorized under this section shall not be added to a policy containing the total disability coverage heretofore issued under section 602(v) of the National Service Life Insurance Act of 1940, or the provisions of this section as in effect before January 1, 1965, except upon surrender of such total disability coverage, proof of good health, if required, satisfactory to the Administrator, and payment of such extra premium as the Administrator shall determine is required in such cases. Participating policies containing additional provisions for the payment of disability benefits may be separately classified for the purpose of dividend distribution from otherwise similar policies not containing such benefits.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1151; Pub. L. 88-355, July 7, 1964, 78 Stat. 272.)

REFERENCES IN TEXT

Section 620 of the National Service Life Insurance Act of 1940, referred to in text, is section 620 of act Oct. 8, 1940, ch. 757, title VI, pt. I, as added Apr. 25, 1951, ch. 39, pt. II, § 10, 65 Stat. 36, which enacted section 821 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed and the provisions thereof reenacted as section 722 of this title by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1105.

Section 602(v) of the National Service Life Insurance Act of 1940, referred to in text, is section 602(v) of act Oct. 8, 1940, ch. 757, title VI, pt. I, 54 Stat. 1009, which enacted section 802(v) of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed and the provisions thereof reenacted as this section and section 721 of this title by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1105.

AMENDMENTS

1964—Pub. L. 88-355 authorized the issuance of total disability income provisions to provide coverage to age 65 instead of to age 60, provided that said provisions shall not be issued unless application therefor is made either prior to the insured's 55th birthday, or before the insured's 60th birthday and prior to Jan. 1, 1966, and inserted "or the provisions of this section as in effect before January 1, 1965" preceding "except upon surrender", and "if required" following "proof of good health."

EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88-355 provided in part that the amendment of this section by Pub. L. 88-355 shall be effective Jan. 1, 1965.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 707 of this title.

§ 716. Insurance which matured before August 1, 1946

(a) Insurance which matured before August 1, 1946, is payable in the following manner:

(1) If the beneficiary to whom payment is first made was under thirty years of age at the time of maturity, in two hundred and forty equal monthly installments.

(2) If the beneficiary to whom payment is first made was thirty or more years of age at

the time of maturity, in equal monthly installments for one hundred and twenty months certain, with such payments continuing during the remaining lifetime of such beneficiary.

(3) If elected by the insured or a beneficiary entitled to make such an election under prior provisions of law, as a refund life income in monthly installments payable for such period certain as may be required in order that the sum of the installments certain, including a last installment of such reduced amount as may be necessary, shall equal the face value of the contract, less any indebtedness, with such payments continuing throughout the lifetime of the first beneficiary. A refund life income optional settlement is not available in any case in which such settlement would result in payments of installments over a shorter period than one hundred and twenty months. If the mode of payment is changed to a refund life income in accordance with prior provisions of law, after payment has commenced, payment of monthly installments will be adjusted as of the date of maturity of such policy with credit being allowed for payments previously made on the insurance.

(b) Such insurance shall be payable only to a widow, widower, child, parent, brother or sister of the insured. Any installments certain of such insurance remaining unpaid at the death of any beneficiary shall be paid in equal monthly installments in an amount equal to the monthly installments paid to the first beneficiary, to the person or persons then in being within the following classes, and in the order named, unless designated by the insured in a different order:

(1) To the widow or widower of the insured, if living.

(2) If no widow or widower, to the child or children of the insured, if living, in equal shares.

(3) If no widow, widower, or child, to the parent or parents of the insured who last bore that relationship, if living, in equal shares.

(4) If no widow, widower, child, or parent, to the brothers and sisters of the insured, if living, in equal shares.

(c) The provisions of this section shall not be construed to enlarge the classes of beneficiaries heretofore authorized under section 602(d) of the National Service Life Insurance Act of 1940, for payment of gratuitous insurance.

(d) If no beneficiary of insurance which matured before August 1, 1946, was designated by the insured or if the designated beneficiary did not survive the insured, the beneficiary shall be determined in accordance with the order specified in subsection (b) and the insurance shall be payable in equal monthly installments in accordance with subsection (a). The right of any beneficiary to payment of any installments of such insurance shall be conditioned upon his or her being alive to receive such payments. No person shall have a vested right to any installment or installments of any such insurance and any installments not paid to a beneficiary during such beneficiary's lifetime shall be paid to the beneficiary or beneficiaries within the permitted class next entitled to priority, as provided in subsection (b).

(e) No installments of insurance which matured before August 1, 1946, shall be paid to the heirs or legal representatives as such of the insured or of any beneficiary, and if no person within the permitted class survives to receive the insurance or any part thereof no payment of the unpaid installments shall be made, except that if the reserve of a contract of converted National Service Life Insurance, together with dividends accumulated thereon, less any indebtedness under such contract, exceeds the aggregate amount paid to beneficiaries, the excess shall be paid to the estate of the insured unless the estate of the insured would escheat under the laws of his place of residence, in which event no payment shall be made. When the amount of an individual monthly payment of such insurance is less than $5, such amount may, in the discretion of the Administrator, be allowed to accumulate without interest and be disbursed annually.

(f) Any payments of insurance made to a person, represented by the insured to be within the permitted class of beneficiaries, shall be deemed to have been properly made and to satisfy fully the obligation of the United States under such insurance policy to the extent of such payments.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1151.)

REFERENCES IN TEXT

Section 602(d) of the National Service Life Insurance Act of 1940, referred to in subsec. (c), is section 602(d) of act Oct. 8, 1940, ch. 757, title VI, pt. I, 54 Stat. 1009, which enacted section 802(d) of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was omitted in the general revision and reenactment of this title by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1105.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 711 of this title.

§ 717. Insurance maturing on or after August 1, 1946

(a) The insured shall have the right to designate the beneficiary or beneficiaries of insurance maturing on or after August 1, 1946, and shall, subject to regulations, at all times have the right to change the beneficiary or beneficiaries of such insurance without the consent of such beneficiary or beneficiaries.

(b) Insurance maturing on or after August 1, 1946, shall be payable in accordance with the following optional modes of settlement:

(1) In one sum.

(2) In equal monthly installments of from thirty-six to two hundred and forty in number, in multiples of twelve.

(3) In equal monthly installments for one hundred and twenty months certain with such payments continuing during the remaining lifetime of the first beneficiary.

(4) As a refund life income in monthly installments payable for such period certain as may be required in order that the sum of the installments certain, including a last installment of such reduced amount as may be necessary, shall equal the face value of the contract, less any indebtedness, with such payments continuing throughout the lifetime of the first beneficiary; however, such optional

settlement shall not be available in any case in which such settlement would result in payments of installments over a shorter period than one hundred and twenty months.

(c) Unless the insured elects some other mode of settlement, such insurance shall be payable to the designated beneficiary or beneficiaries in thirty-six equal monthly installments. The first beneficiary may elect to receive payment under any option which provides for payment over a longer period of time than the option elected by the insured, or if no option has been elected by the insured, in excess of thirty-six months. If the option selected requires payment to any one beneficiary of monthly installments of less than $10, the amount payable to such beneficiary shall be paid in such maximum number of monthly installments as are a multiple of twelve as will provide a monthly installment of not less than $10. If the present value of the amount payable at the time any person initially becomes entitled to payment thereof is not sufficient to pay at least twelve monthly installments of not less than $10 each, such amount shall be payable in one sum. Options (3) and (4) shall not be available if any firm, corporation, legal entity (including the estate of the insured), or trustee is beneficiary.

(d) If the beneficiary of such insurance is entitled to a lump-sum settlement but elects some other mode of settlement and dies before receiving all the benefits due and payable under such mode of settlement, the present value of the remaining unpaid amount shall be payable to the estate of the beneficiary. If no beneficiary is designated by the insured, or if the designated beneficiary does not survive the insured, or if a designated beneficiary not entitled to a lump-sum settlement survives the insured, and dies before receiving all the benefits due and payable, then the commuted value of the remaining unpaid insurance (whether accrued or not) shall be paid in one sum to the estate of the insured. In no event shall there be any payment to the estate of the insured or of the beneficiary of any sums unless it is shown that any sums paid will not escheat.

(e) Under such regulations as the Administrator may promulgate, the cash surrender value of any policy of insurance or the proceeds of an endowment contract which matures by reason of completion of the endowment period may be paid to the insured under option (2) or (4) of this section. All settlements under option (4), however, shall be calculated on the basis of The Annuity Table for 1949. If the option selected requires payment of monthly installments of less than $10, the amount payable shall be paid in such maximum number of monthly installments as are a multiple of twelve as will provide a monthly installment of not less than $10.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1152; Pub. L. 91–291, § 10, June 25, 1970, 84 Stat. 331.)

AMENDMENTS

1970—Subsec. (c). Pub. L. 91-291 struck out provision that options (3) and (4) were not available in cases where the endowment contract matured by reason of the completion of the endowment period.

Subsec. (e). Pub. L. 91-291 added subsec. (e).

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-291 effective as of the first day of the first calendar month which begins more than six calendar months after June 25, 1970, see section 14(a) of Pub. L. 91-291, set out as an Effective Date of 1970 Amendment note under section 417 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 722 of this title.

§ 718. Assignments

(a) Assignments of all or any part of the beneficiary's interest may be made by a designated beneficiary to a widow, widower, child, father, mother, grandfather, grandmother, brother, or sister of the insured, when the designated contingent beneficiary, if any, joins the beneficiary in the assignment, and if the assignment is delivered to the Veterans' Administration before any payments of the insurance shall have been made to the beneficiary. However, an interest in an annuity, when assigned, shall be payable in equal monthly installments in such multiple of twelve as most nearly equals the number of installments certain under such annuity, or in two hundred and forty installments, whichever is the lesser. The provisions of this subsection shall not be applicable to insurance maturing on or after the date of enactment of this sentence.

(b) Except as to insurance granted under the provisions of section 722(b) of this title, any person to whom insurance maturing on or after the date of enactment of this sentence is payable may assign all or any portion of his interest in such insurance to a widow, widower, child, father, mother, grandfather, grandmother, brother, or sister of the insured when the designated contingent beneficiary, if any, joins the beneficiary in the assignment. Such joinder shall not be required in any case in which the insurance proceeds are payable in a lump sum.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1153; Pub. L. 87–557, § 1, July 27, 1962, 76 Stat. 245.)

REFERENCES IN TEXT

The date of enactment of this sentence, referred to in subsecs. (a) and (b), means the date of enactment of Pub. L. 87-557, which was approved on July 27, 1962.

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-557, § 1(1), (2), designated existing provisions as subsec. (a), and inserted sentence making subsection inapplicable to insurance maturing on or after "the date of enactment of this sentence [July 27, 1962]".

Subsec. (b). Pub. L. 87-557, § 1(3), added subsec. (b).

§ 719. National Service Life Insurance appropriation

(a) The National Service Life Insurance appropriation is continued and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this chapter and the provisions heretofore prescribed in the National Service Life Insurance Act of 1940, or related Acts, for the payment of liabilities under National Service Life Insurance. Payment from this appropriation shall be made upon and in accordance with awards by the Administrator.

(b) All premiums heretofore and hereafter paid on insurance issued or reinstated under subsections 602(c)(2) and 602(v)(1) of the National Service Life Insurance Act of 1940 where the requirement of good health was waived under such subsections because of a service-incurred injury or disability shall be credited directly to the National Service Life Insurance appropriation and any payments of benefits heretofore and hereafter made on such insurance shall be made directly from such appropriation.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1154.)

REFERENCES IN TEXT

The National Service Life Insurance Act of 1940, referred to in subsec. (a), is act Oct. 8, 1940, ch. 757, title VI, pt. I, §§ 601 to 623, 54 Stat. 1008, as amended, which was classified generally to subchapter I (§§ 801 to 824) of chapter 13 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed by Pub. L. 85–857, § 14(75), Sept. 2, 1958, 72 Stat. 1272, and the provisions thereof reenacted generally as this subchapter by the first section of Pub. L. 85–857 which enacted Title 38, Veterans' Benefits.

Subsections 602(c)(2) and 602(v)(1) of the National Service Life Insurance Act of 1940, referred to in subsec. (b), are subsections 602(c)(2) and 602(v)(1) of act Oct. 8, 1940, ch. 757, title VI, pt. I, 54 Stat. 1009, which enacted subsections 802(c)(2) and 802(v)(1) of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which were repealed and the provisions thereof reenacted as sections 719(b) and 715, respectively, of this title, by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1105.

§ 720. National Service Life Insurance Fund

(a) The National Service Life Insurance Fund heretofore created in the Treasury is continued as a permanent trust fund. Except as otherwise provided in this chapter, all premiums paid on account of National Service Life Insurance shall be deposited and covered into the Treasury to the credit of such fund, which, together with interest earned thereon, shall be available for the payment of liabilities under such insurance, including payment of dividends and refunds of unearned premiums. Payments from this fund shall be made upon and in accordance with awards by the Administrator.

(b) The Administrator is authorized to set aside out of such fund such reserve amounts as may be required under accepted actuarial principles to meet all liabilities under such insurance; and the Secretary of the Treasury is authorized to invest and reinvest such fund, or any part thereof, in interest-bearing obligations of the United States or in obligations guaranteed as to principal and interest by the United States, and to sell such obligations for the purposes of such fund.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1154.)

§ 721. Extra hazard costs

(a) The United States shall bear the excess mortality cost and the cost of waiver of premiums on account of total disability traceable to the extra hazard of military or naval service, as such hazard may be determined by the Administrator.

(b) Whenever benefits under insurance become payable because of the death of the insured as the result of disease or injury traceable to the extra hazard of military or naval service, as such hazard may be determined by the Administrator, the liability for payment of such benefits shall be borne by the United States in an amount which, when added to the reserve of the policy at the time of death of the insured will equal the then value of such benefits under such policy. Where life contingencies are involved in the calculation of the value of such benefits of insurance heretofore or hereafter matured, the calculation of such liability or liabilities shall be based upon such mortality table or tables as the Administrator may prescribe with interest at the rate of 3 per centum per annum. The Administrator shall transfer from time to time from the National Service Life Insurance appropriation to the National Service Life Insurance Fund such sums as may be necessary to carry out the provisions of this section.

(c) Whenever the premiums under insurance are waived because of the total disability of the insured as the result of disease or injury traceable to the extra hazard of military or naval service, as such hazard may be determined by the Administrator, the premiums so waived shall be paid by the United States and the Administrator shall transfer from time to time an amount equal to the amount of such premiums from the National Service Life Insurance appropriation to the National Service Life Insurance Fund.

(d) Whenever benefits under the total disability income provision become, or have become, payable because of total disability of the insured as a result of disease or injury traceable to the extra hazard of the military or naval service, as such hazard may be determined by the Administrator, the liability shall be borne by the United States, and the Administrator shall transfer from the National Service Life Insurance appropriation to the National Service Life Insurance Fund from time to time any amounts which become, or have become, payable to the insured on account of such total disability, and to transfer from the National Service Life Insurance Fund to the National Service Life Insurance appropriation the amount of the reserve held on account of the total disability benefit. When a person receiving such payments on account of total disability recovers from such disability, and is then entitled to continue protection under the total disability income provision, the Administrator shall transfer to the National Service Life Insurance Fund a sum sufficient to set up the then required reserve on such total disability benefit.

(e) Any disability for which a waiver was required as a condition to tendering a person a commission under Public Law 816, Seventy-seventh Congress, shall be deemed to be a disability resulting from an injury or disease traceable to the extra hazard of military or naval service for the purpose of applying this section.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1154.)

REFERENCES IN TEXT

Public Law 816, 77th Cong., referred to in subsec. (e), is act Dec. 18, 1942, ch. 768, §§ 1, 2, 56 Stat. 1066. Section 1 of that Act enacted section 853c-5 of former Title 34, Navy, and was repealed by act July 9, 1952, ch. 608, pt. VIII, § 803, 66 Stat. 505. Section 2 of that Act enacted section 853c-6 of former Title 34, and was omitted from the Code in the general revision and

reenactment of Title 10, Armed Forces, by act Aug. 10, 1956, ch. 1041, 70A Stat. 1.

§ 722. Service disabled veterans' insurance

(a) Any person who is released from active military, naval, or air service, under other than dishonorable conditions on or after April 25, 1951, and is found by the Administrator to be suffering from a disability or disabilities for which compensation would be payable if 10 per centum or more in degree and except for which such person would be insurable according to the standards of good health established by the Administrator, shall, upon application in writing made within one year from the date service-connection of such disability is determined by the Veterans' Administration and payment of premiums as provided in this subchapter, be granted insurance by the United States against the death of such person occurring while such insurance is in force. If such a person is shown by evidence satisfactory to the Administrator to have been mentally incompetent during any part of the one-year period, application for insurance under this section may be filed within one year after a guardian is appointed or within one year after the removal of such disability as determined by the Administrator, whichever is the earlier date. If the guardian was appointed or the removal of the disability occurred before January 1, 1959, application for insurance under this section may be made within one year after that date. Insurance granted under this section shall be issued upon the same terms and conditions as are contained in the standard policies of National Service Life Insurance except (1) the premium rates for such insurance shall be based on the Commissioners 1941 Standard Ordinary Table of Mortality and interest at the rate of 2¼ per centum per annum; (2) all cash, loan, paid-up, and extended values shall be based upon the Commissioners 1941 Standard Ordinary Table of Mortality and interest at the rate of 2¼ per centum per annum; (3) all settlements on policies involving annuities shall be calculated on the basis of The Annuity Table for 1949, and interest at the rate of 2¼ per centum per annum; (4) insurance granted under this section shall be on a nonparticipating basis and all premiums and other collections therefor shall be credited directly to a revolving fund in the Treasury of the United States, and any payments on such insurance shall be made directly from such fund. Appropriations to such fund are hereby authorized. As to insurance issued under this section, waiver of premiums pursuant to section 602(n) of the National Service Life Insurance Act of 1940 and section 712 of this title shall not be denied on the ground that the service-connected disability became total before the effective date of such insurance.

(b)(1) Any person who, on or after April 25, 1951, was otherwise qualified for insurance under the provisions of section 620 of the National Service Life Insurance Act of 1940, or under subsection (a) of this section, but who did not apply for such insurance and who is shown by evidence satisfactory to the Administrator (A) to have been mentally incompetent from a service-connected disability, (i) at the time of release from active service, or (ii) during any part of the one-year period from the date the service connection of a disability is first determined by the Veterans' Administration, or (iii) after release from active service but is not rated service-connected disabled by the Veterans' Administration until after death; and (B) to have remained continuously so mentally incompetent until date of death; and (C) to have died before the appointment of a guardian, or within one year after the appointment of a guardian; shall be deemed to have applied for and to have been granted such insurance, as of the date of death, in an amount which, together with any other United States Government or National Service life insurance in force, shall aggregate $10,000. The date to be used for determining whether such person was insurable according to the standards of good health established by the Administrator, except for the service-connected disability, shall be the date of release from active service or the date the person became mentally incompetent, whichever is the later.

(2) Payments of insurance granted under subsection (b)(1) of this section shall be made only to the following beneficiaries and in the order named—

(A) to the widow or widower of the insured, if living and while unremarried;

(B) if no widow or widower entitled thereto, to the child or children of the insured, if living, in equal shares;

(C) if no widow or widower or child entitled thereto, to the parent or parents of the insured who last bore that relationship, if living, in equal shares.

(3) No application for insurance payments under this subsection shall be valid unless filed in the Veterans' Administration within two years after the date of death of the insured or before January 1, 1961, whichever is the later, and the relationship of the applicant shall be proved as of the date of death of the insured by evidence satisfactory to the Administrator. Persons shown by evidence satisfactory to the Administrator to have been mentally or legally incompetent at the time the right to apply for death benefits expires, may make such application at any time within one year after the removal of such disability.

(4) Notwithstanding the provisions of section 717 of this title, insurance under this subsection shall be payable at the election of the first beneficiary in 240 equal monthly installments or under the options specified in section 717(b)(3) or (4) of this title. Any installments certain of insurance remaining unpaid at the death of any beneficiary shall be paid in equal monthly installments in an amount equal to the monthly installments paid to the first beneficiary, to the person or persons then in being within the classes specified in subsection (b)(2) of this section and in the order named.

(5) The right of any beneficiary to payment of any installments shall be conditioned upon his or her being alive to receive such payments. No person shall have a vested right to any installment or installments of any such insurance and any installments not paid to a beneficiary during such beneficiary's lifetime shall be paid to the beneficiary or beneficiaries within the permitted class next entitled to priority, as pro-

vided in subsection (b)(2) of this section. No installments of such insurance shall be paid to the heirs or legal representatives as such of the insured or of any beneficiary, and if no person within the permitted class survives to receive the insurance or any part thereof no payment of the unpaid installments shall be made.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1155.)

REFERENCES IN TEXT

Section 602(n) of the National Service Life Insurance Act of 1940, referred to in subsec. (a), is section 602(n) of act Oct. 8, 1940, ch. 757, title VI, pt. I, 54 Stat. 1009, which enacted section 802(n) of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed and the provisions thereof reenacted as section 712 of this title by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1105.

Section 620 of the National Service Life Insurance Act of 1940, referred to in subsec. (b)(1), is section 620 of act Oct. 8, 1940, ch. 757, title VI, pt. I, as added Apr. 25, 1951, ch. 39, pt. II, § 10, 65 Stat. 36, which enacted section 821 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed and the provisions thereof reenacted as this section by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1105.

CROSS REFERENCES

Assignment of insurance granted under subsec. (b) of this section excepted from general assignment provisions, see section 718(b) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 107, 403, 704, 712, 715, 718 of this title.

§ 723. Veterans' Special Life Insurance

(a) Insurance heretofore granted under the provisions of section 621 of the National Service Life Insurance Act of 1940, against the death of the policyholder occurring while such insurance is in force, is subject to the same terms and conditions as are contained in standard policies of National Service Life Insurance on the five-year level premium term plan except (1) such insurance may not be exchanged for or converted to insurance on any other plan; (2) the premium rates for such insurance shall be based on the Commissioners 1941 Standard Ordinary Table of Mortality and interest at the rate of 2¼ per centum per annum; (3) all settlements on policies involving annuities shall be calculated on the basis of The Annuity Table for 1949, and interest at the rate of 2¼ per centum per annum; (4) all premiums and other collections on such insurance and any total disability provisions added thereto shall be credited to a revolving fund in the Treasury of the United States, which, together with interest earned thereon, shall be available for the payment of liabilities under such insurance and any total disability provisions added thereto, including payments of dividends and refunds of unearned premiums.

(b) Any term insurance heretofore issued under section 621 of the National Service Life Insurance Act of 1940, may be converted to a permanent plan of insurance or exchanged for a policy of limited convertible five-year level premium term insurance issued under this subsection. Insurance issued under this subsection shall be issued upon the same terms and conditions as are contained in the standard policies of National Service Life Insurance except (1) after September 1, 1960, limited convertible term insurance may not be issued or renewed on the term plan after the insured's fiftieth birthday; (2) the premium rates for such limited convertible term or permanent plan insurance shall be based on table X–18 (1950–54 Intercompany Table of Mortality) and interest at the rate of 2½ per centum per annum; (3) all settlements on policies involving annuities on insurance issued under this subsection shall be calculated on the basis of The Annuity Table for 1949, and interest at the rate of 2½ per centum per annum; (4) all cash, loan, paid-up, and extended values, and, except as otherwise provided in this subsection, all other calculations in connection with insurance issued under this subsection shall be based on table X–18 (1950–54 Intercompany Table of Mortality) and interest at the rate of 2½ per centum per annum; (5) all premiums and other collections on insurance issued under this subsection and any total disability income provisions added thereto shall be credited directly to the revolving fund referred to in subsection (a) of this section, which together with interest earned thereon, shall be available for the payment of liabilities under such insurance and any total disability provisions added thereto, including payments of dividends and refunds of unearned premiums.

(c) The Administrator is authorized to invest in, and the Secretary of the Treasury is authorized to sell and retire, special interest-bearing obligations of the United States for the account of the revolving fund with a maturity date as may be agreed upon by the Administrator and Secretary. The rate of interest on such obligations shall be fixed by the Secretary of the Treasury at a rate equal to the rate of interest, computed as of the end of the month preceding the date of issue of such obligations, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt that are not due or callable until after the expiration of five years from the date of original issue; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligations shall be the multiple of one-eighth of 1 per centum nearest such average rate.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1157; Pub. L. 85–896, Sept. 2, 1958, 72 Stat. 1716; Pub. L. 87–223, Sept. 13, 1961, 75 Stat. 495; Pub. L. 93–289, § 2(a), May 24, 1974, 88 Stat. 165.)

REFERENCES IN TEXT

Section 621 of the National Service Life Insurance Act of 1940, referred to in subsecs. (a) and (b), is section 621 of act Oct. 8, 1940, ch. 757, title VI, pt. I, as added Apr. 25, 1951, ch. 39, pt. II, § 10, 65 Stat. 36, which enacted section 822 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed and the provisions thereof reenacted as this section by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1105.

AMENDMENTS

1974—Pub. L. 93–289, § 2(a)(1), substituted "Veterans' Special Life Insurance" for "Veterans' special term insurance" in section catchline.

Subsec. (a). Pub. L. 93–289, § 2(a)(2), substituted in clause (4) "all premiums and other collections on such insurance and any total disability provisions added thereto shall be credited to a revolving fund in the Treasury of the United States, which, together with

interest earned thereof, shall be available for the payment of liabilities under such insurance and any total disability provisions added thereto, including payments of dividends and refunds of unearned premiums", for "such insurance and any total disability provision added thereto shall be on a nonparticipating basis and all premiums and other collections therefor shall be credited to a revolving fund in the Treasury of the United States and the payments on such term insurance and any total disability provision added thereto shall be made directly from such fund".

Subsec. (b). Pub. L. 93-289, § 2(a)(3), substituted in clause (5) "all premiums and other collections on insurance issued under this subsection and any total disability income provisions added thereto shall be credited directly to the revolving fund referred to in subsection (a) of this section, which together with interest earned thereon, shall be available for the payment of liabilities under such insurance and any total disability provisions added thereto, including payments of dividends and refunds of unearned premiums", for "insurance and any total disability provision added thereto issued under this subsection shall be on a nonparticipating basis and all premiums and other collections therefor shall be credited directly to the revolving fund referred to in subsection (a) and payments on such insurance and any total disability provision added thereto shall be made directly from such fund".

Subsecs. (d), (e). Pub. L. 93-289, § 2(a)(4), repealed subsecs. (d) and (e), which related to the payment of dividends from the excess funds in the revolving fund, and to the transfer of funds from the revolving fund to general fund receipts in the Treasury.

1961—Subsecs. (d) and (e). Pub. L. 87-223 added subsecs. (d) and (e).

1958—Subsec. (b). Pub. L. 85-896, § 1(2) added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 85-896, § 1(1), redesignated former subsec. (b) as (c) and substituted "equal to the rate of interest, computed as of the end of the month preceding the date of issue of such obligations, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt that are not due or callable until after the expiration of five years from the date of original issue; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligations shall be the multiple of one-eighth of 1 per centum nearest such average rate" for "not exceeding the average interest rate on all marketable obligations of the United States Treasury outstanding as of the end of the month preceding the date of issue of this special obligation".

EFFECTIVE DATE OF 1974 AMENDMENT

Section 12(1) of Pub. L. 93-289 provided that: "The amendments made by section 2 [to this section], relating to Veterans' Special Life Insurance, shall become effective upon the date of enactment of this Act [May 24, 1974] except that no dividend on such insurance shall be paid prior to January 1, 1974."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 704 of this title.

§ 724. In-service waiver of premiums

(a) Waiver of all premiums on five-year level premium term insurance and that portion of any permanent insurance premiums representing the cost of the pure insurance risk, as determined by the Administrator, granted on National Service Life Insurance or United States Government life insurance under section 622 of the National Service Life Insurance Act of 1940 and in effect on January 1, 1959, shall, unless canceled, continue in effect according to the provisions of such section for the remainder of the insured's continuous active service and for one hundred and twenty days thereafter. Such premium waiver renders the contract of insurance nonparticipating during the period the waiver is in effect.

(b) Whenever benefits become payable because of the maturity of such insurance while under the premium waiver continued by this section, liability for payment of such benefits shall be borne by the United States in an amount which, when added to any reserve of the policy at the time of maturity, will equal the then value of such benefits under such policy. Where life contingencies are involved in the calculation of the value of such benefits, the calculation of such liability or liabilities shall be based upon such mortality table or tables as the Administrator may prescribe with interest at the rate of 2¼ per centum per annum as to insurance issued under sections 620 and 621 of the National Service Life Insurance Act of 1940, at the rate of 3 per centum per annum as to other National Service Life Insurance, and 3½ per centum per annum as to United States Government life insurance. The Administrator shall transfer from time to time from the National Service Life Insurance appropriation to the National Service Life Insurance Fund and from the military and naval insurance appropriation to the United States Government Life Insurance Fund such sums as may be necessary to carry out the provisions of this section.

(c) In any case in which insurance continued in force under this section matures on or after January 1, 1972, an amount equal to the amount of premiums, less dividends, waived on and after that date shall be placed as an indebtedness against the insurance and, unless otherwise paid, shall be deducted from the proceeds. In such case, the liability of the Government under subsection (b) of this section shall be reduced by the amount so deducted from the proceeds.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1157; Pub. L. 92-197, § 7, Dec. 15, 1971, 85 Stat. 662.)

REFERENCES IN TEXT

Section 622 of the National Service Life Insurance Act of 1940, referred to in subsec. (a), is section 622 of act Oct. 8, 1940, ch. 757, title VI, pt. I, as added Apr. 25, 1951, ch. 39, pt. II, § 10, 65 Stat. 36, which enacted section 823 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed and the provisions thereof reenacted as this section by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1105.

Sections 620 and 621 of the National Service Life Insurance Act of 1940, referred to in subsec. (b), are sections 620 and 621 of act Oct. 8, 1940, ch. 757, title VI, pt. I, as added Apr. 25, 1951, ch. 39, pt. II, § 10, 65 Stat. 36, which enacted sections 821 and 822 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which were repealed and reenacted as sections 722 and 723, respectively, of this title by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1105.

AMENDMENTS

1971—Subsec. (c). Pub. L. 92-197 added subsec. (c).

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-197 effective Jan. 1, 1972, see section 10 of Pub. L. 92-197, set out as an Effective Date of 1971 Amendment note under section 411 of this title.

§ 725. Limited period for acquiring insurance

(a) Any person (other than a person referred to in subsection (f) of this section) heretofore eligible to apply for National Service Life Insurance after October 7, 1940, and before January 1, 1957, who is found by the Administrator to be suffering (1) from a service-connected disability or disabilities for which compensation would be payable if 10 per centum or more in degree and except for which such person would be insurable according to the standards of good health established by the Administrator; or (2) from a non-service-connected disability which renders such person uninsurable according to the standards of good health established by the Administrator and such person establishes to the satisfaction of the Administrator that he is unable to obtain commercial life insurance at a substandard rate, shall, upon application in writing made within one year after the effective date of this section, compliance with the health requirements of this section and payment of the required premiums, be granted insurance under this section.

(b) If, notwithstanding the applicant's service-connected disability, he is insurable according to the standards of good health established by the Administrator, the insurance granted under this section shall be issued upon the same terms and conditions as are contained in the standard policies of National Service Life Insurance except (1) five-year level premium term insurance may not be issued; (2) the net premium rates shall be based on the 1958 Commissioners Standard Ordinary Basic Mortality Table, increased at the time of issue by such an amount as the Administrator determines to be necessary for sound actuarial operations, and thereafter such premiums may be adjusted as the Administrator determines to be so necessary but at intervals of not less than two years; (3) an additional premium to cover administrative costs to the Government as determined by the Administrator at times of issue shall be charged for insurance issued under this subsection and for any total disability income provision attached thereto, and thereafter such costs may be adjusted as the Administrator determines to be necessary but at intervals of not less than five years; (4) all cash, loan, extended and paid-up insurance values shall be based on the 1958 Commissioners Standard Ordinary Basic Mortality Table; (5) all settlements on policies involving annuities shall be calculated on the basis of The Annuity Table for 1949; (6) all calculations in connection with insurance issued under this subsection shall be based on interest at the rate of 3½ per centum per annum; (7) the insurance shall include such other changes in terms and conditions as the Administrator determines to be reasonable and practicable; (8) the insurance and any total disability income provision attached thereto shall be on a nonparticipating basis.

(c) If the applicant's service-connected disability or disabilities render him uninsurable according to the standards of good health established by the Administrator, or if the applicant has a non-service-connected disability which renders him uninsurable according to the standards of good health established by the Administrator and such person establishes to the satisfaction of the Administrator that he is unable to obtain commercial life insurance at a substandard rate and such uninsurability existed as of the date of approval of this section, the insurance granted under this section shall be issued upon the same terms and conditions as are contained in standard policies of National Service Life Insurance, except (1) five-year level premium term insurance may not be issued; (2) the premiums charged for the insurance issued under this subsection shall be increased at the time of issue by such an amount as the Administrator determines to be necessary for sound actuarial operations and thereafter such premiums may be adjusted from time to time as the Administrator determines to be necessary; for the purpose of any increase at time of issue or later adjustment the service-connected group and the non-service-connected group may be separately classified; (3) an additional premium to cover administrative costs to the Government as determined by the Administrator at the time of issue shall be charged for insurance issued under this subsection and for any total disability income provision attached thereto (for which the insured may subsequently become eligible) and thereafter such costs may be adjusted as the Administrator determines to be necessary but at intervals of not less than five years and for this purpose the service-connected and non-service-connected can be separately classified; (4) the insurance and any total disability income provision attached thereto shall be on a nonparticipating basis; (5) all settlements on policies involving annuities shall be calculated on the basis of The Annuity Table for 1949; (6) all calculations in connection with insurance issued under this subsection shall be based on interest at the rate of 3½ per centum per annum; (7) the insurance shall include such other changes in terms and conditions as the Administrator determines to be reasonable and practicable.

(d)(1) All premiums and collections on insurance issued pursuant to this section and any total disability income provision attached thereto shall be credited to the Veterans Reopened Insurance Fund, a revolving fund established in the Treasury of the United States, and all payments on such insurance and any total disability provision attached thereto shall be made from that fund. For actuarial and accounting purposes, the assets and liabilities (including liabilities for repayment of advances hereinafter authorized, and adjustment of premiums) attributable to the insured groups established under this section shall be separately determined. Such amounts in the Veterans Special Term Insurance Fund in the Treasury, not exceeding $1,650,000 in the aggregate, as may hereafter be determined by the Administrator to be in excess of the actuarial liabilities of that fund, including contingency reserves, shall be available for transfer to the Veterans Reopened Insurance Fund as needed to provide initial capital. Any amounts so transferred shall be repaid to the Treasury over a reasonable period of time with interest as determined by the Secretary of the Treasury taking into consideration the average yield on all marketable interest-bearing obligations of the United States of

comparable maturities then forming a part of the public debt.

(2) The Administrator is authorized to set aside out of the revolving fund established under this section such reserve amounts as may be required under accepted actuarial principles to meet all liabilities on insurance issued under this section and any total disability income provision attached thereto. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest such market yield.

(3) Notwithstanding the provisions of section 782 of this title, the Administrator shall, from time to time, determine the administrative costs to the Government which in his judgment are properly allocable to insurance issued under this section and any total disability income provision attached thereto, and shall transfer from the revolving fund, the amount of such cost allocable to the Veterans' Administration to the appropriation "General Operating Expenses, Veterans' Administration", and the remainder of such cost to the general fund receipts in the Treasury. The initial administrative costs of issuing insurance under this section and any total disability income provision attached thereto shall be so transferred over such period of time as the Administrator determines to be reasonable and practicable.

(e) Notwithstanding the provisions of section 782 of this title, a medical examination (including any supplemental examination or tests) when required of an applicant for issuance of insurance under this section or any total disability income provisions attached thereto shall be at the applicant's own expense by a duly licensed physician.

(f) No insurance shall be granted under this section to any person referred to in section 107 of this title or to any person while on active duty or active duty for training under a call or order to such duty for a period of thirty-one days or more.

(Added Pub. L. 88–664, § 12(a), Oct. 13, 1964, 78 Stat. 1096, and amended Pub. L. 89–40, June 14, 1965, 79 Stat. 130, 131.)

REFERENCES IN TEXT

The effective date of this section, referred to in subsec. (a), is the first day of the first calendar month which begins more than 6 calendar months after Oct. 13, 1964, see section 12(d) of Pub. L. 88–664, set out as an Effective Date note below.

AMENDMENTS

1965—Subsec. (b). Pub. L. 89–40, § 1(1), deleted a provision from clause (8) which called for all premiums and other collections for insurance granted under this section to be credited to a revolving fund established in the Treasury of the United States and for payment on such insurance or total disability income provisions to be made directly from that fund.

Subsec. (c). Pub. L. 89–40, § 1(2), deleted clause (8) which provided that all premiums and other collections on the insurance and any total disability income provision attached thereto should be credited to the National Service Life Insurance appropriation, and the payments on such insurance and total disability income provisions should be made directly from such appropriations, and eliminated sentence which authorized necessary appropriations.

Subsec. (d)(1). Pub. L. 89–40, § 1(3), deleted provisions authorizing appropriations to carry out the purposes of subsec. (b) of this section by adding to the revolving fund as needed at interest to be determined by the Secretary of the Treasury, and substituted therefor provisions requiring credit to Veterans Reopened Insurance Fund of all premiums and collections on insurance issued pursuant to this section and disbursements from that fund of all payments on insurance and total disability provisions attached thereto, separate determination for actuarial purposes of the various insured groups under this section, transfer to fund from Veterans Special Term Insurance Fund to provide initial capital of excess funds not exceeding $1,650,000, and repayment over a reasonable time at interest to be determined by the Secretary of the Treasury.

Subsec. (d)(2). Pub. L. 89–40, § 1(4), eliminated references to subsec. (b) of this section.

Subsec. (d)(3). Pub. L. 89–40, § 1(5), removed reference to National Service Life Insurance appropriation.

EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89–40 provided in part that the amendment of this section shall be effective May 1, 1965.

EFFECTIVE DATE

Section 12(d) of Pub. L. 88–664 provided that: "The amendments made by this section [adding this section and amending section 704 of this title] shall take effect as of the first day of the first calendar month which begins more than six calendar months after the date of enactment of this Act [Oct. 13, 1964]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 704 of this title.

SUBCHAPTER II—UNITED STATES GOVERNMENT LIFE INSURANCE

§ 740. Definition

For the purposes of this subchapter, the term "insurance" means United States Government life insurance.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1158.)

§ 741. Amount of insurance

United States Government life insurance shall be issued against death or total permanent disability in any multiple of $500 and not less than $1,000 or more than $10,000. No person may carry a combined amount of National Service Life Insurance and United States Government life insurance in excess of $10,000 at any one time. The limitations of this section shall not apply to the additional paid up insurance the purchase of which is authorized under section 707 of this title.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1158; Pub. L. 92-188, § 1, Dec. 15, 1971, 85 Stat. 645.)

AMENDMENTS

1971—Pub. L. 92-188 made section limitations inapplicable to the additional paid up insurance purchase of which is authorized under section 707 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-188 effective on a date established by the Administrator but in no event later than first day of first calendar month beginning more than six calendar months after Dec. 15, 1971, see section 4 of Pub. L. 92-188, set out as an Effective Date of 1971 Amendment note under section 707 of this title.

§ 742. Plans of insurance

(a) Regulations shall provide for the right to convert insurance on the five-year level premium term plan into ordinary life, twenty-payment life, endowment maturing at age sixty-two, and into other usual forms of insurance as may be prescribed by the Administrator. Provision shall be made for reconversion of any such policies to a higher premium rate or, upon proof of good health satisfactory to the Administrator, to a lower premium rate, in accordance with regulations to be issued by the Administration. No reconversion shall be made to a five-year level premium term policy.

(b) An insured who on or after his sixty-fifth birthday has a five-year level premium term policy of insurance in force by payment of premiums may exchange such policy for insurance on a special endowment at age ninety-six plan upon written application; payment of the required premium; and surrender of the five-year level premium term policy and any total disability provision attached thereto with all rights, title, and interests thereunder. However, if it is found by the Administrator subsequent to the exchange that prior thereto the term policy matured because of total permanent disability of the insured or that he was entitled to total disability benefits under the total disability provision attached to such policy, the insured, upon surrender of the special endowment at age ninety-six policy and any provision for waiver of premiums issued under subsection (c) of this section with all rights, title, and interest thereunder, will be entitled to benefits payable under the prior contract. In such case, the cash value less any indebtedness on the endowment policy shall be refunded together with any premiums paid on a provision for waiver of premiums. Insurance on the special endowment at age ninety-six plan shall be issued at the attained age of the insured upon the same terms and conditions as are contained in standard policies of United States Government Life Insurance except:

(1) the insurance shall not mature and no benefits shall be paid thereunder because of total permanent disability;

(2) the premiums for such insurance shall be as prescribed by the Administrator;

(3) such insurance cannot be exchanged, converted, or reconverted to any other plan of insurance;

(4) all cash, loan, paid-up, and extended term insurance values shall be as prescribed by the Administrator; and

(5) the insurance shall be subject to such other changes in terms and conditions as the Administrator determines to be reasonable and practicable.

(c) The Administrator shall, upon application made by the insured at the same time as he exchanges his term policy for an endowment policy issued under the provisions of subsection (b) of this section, and upon payment of such extra premium as the Administrator shall prescribe, include in such endowment policy a provision for waiver of premiums on the policy and on the provision during the total permanent disability of the insured, if such disability began after the date of such application and while the policy and the provision are in force by payment of premiums. The Administrator shall not grant waiver of any premium becoming due more than one year before receipt in the Veterans Administration of claim for the same, except as provided in this subsection. Any premiums paid for months during which waiver is effective shall be refunded. The Administrator shall provide by regulations for examination or reexamination of an insured claiming waiver of premiums under this subsection, and may deny waiver for failure to cooperate. If it is found that an insured is no longer totally and permanently disabled, the waiver of premiums shall cease as of the date of such finding and the policy and provision may be continued by payment of premiums as provided therein. In any case in which the Administrator finds that the insured's failure to make timely claim for waiver of premiums, or his failure to submit satisfactory evidence of the existence or continuance of total permanent disability was due to circumstances beyond his control, the Administrator may grant waiver or continuance of waiver of premiums. If the insured dies without filing claim for waiver, the beneficiary, within one year after the death of the insured, or if the beneficiary is insane or a minor, within one year after removal of such legal disability, may file claim for waiver with evidence of the insured's right to waiver under this subsection. Policies containing a provision for waiver of premiums issued under this subsection may be separately classified for the purpose of dividend distribution from otherwise similar policies not containing such provision.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1158; Pub. L. 87-549, July 25, 1962, 76 Stat. 219.)

AMENDMENTS

1962—Pub. L. 87-549 designated existing provisions as subsec. (a), and added subsecs. (b) and (c).

§ 743. Premiums

The premium rates for insurance shall be the net rates based upon the American Experience Table of Mortality and interest at 3½ per centum per annum. Regulations shall prescribe the time and method of payment of premiums, but payments of premiums in advance shall not be required for periods of more than one month each, and may be deducted from the pay or deposit of the insured or be otherwise made at his election.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1158.)

§ 744. Policy provisions

(a) Provisions for maturity at certain ages, for continuous installments during the lifetime of the insured or beneficiaries, or both, for refund of premiums, cash, loan, paid-up and extended values, dividends from gains and savings, and such other provisions for the protection and advantage of and for alternative benefits to the insured and the beneficiaries as may be found to be reasonable and practicable may be provided for in insurance contracts or from time to time by regulations.

(b) All calculations on insurance shall be based upon the American Experience Table of Mortality and interest at 3½ per centum per annum, except that no deduction shall be made for continuous installments during the life of the insured in case his total and permanent disability continues more than two hundred and forty months.

(c) On and after July 19, 1939, the rate of interest charged on any loan secured by a lien on insurance shall not exceed 5 per centum per annum.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1158.)

§ 745. Renewal

At the expiration of any term period any insurance policy issued on the five-year level premium term plan which has not been exchanged or converted to a permanent plan of insurance and which is not lapsed shall be renewed as level premium term insurance without application for a successive five-year period at the premium rate for the attained age without medical examination. However, renewal shall be effected in cases where the policy is lapsed only if the insured makes application for reinstatement and renewal of his term policy within five years after the date of lapse, and reinstatement in such cases shall be under the terms and conditions prescribed by the Administrator.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1159; Pub. L. 91–291, § 11, June 25, 1970, 84 Stat. 331.)

AMENDMENTS

1970—Pub. L. 91–291 struck out the effective date provision for the renewal of policies, provisions that, in the case of lapsed policies, such lapse have occurred within two months before the expiration of the term period, special provisions for the interim period between July 23, 1953 and December 31, 1953, and provisions that the section take effect on Sept. 2, 1958, and required that the insurer make application for reinstatement and renewal of his term policy within five years after the date of the lapse.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–291 effective June 25, 1970, see section 14(a) of Pub. L. 91–291, set out as an Effective Date of 1970 Amendment note under section 417 of this title.

§ 746. Dividends to pay premiums

Until and unless the Veterans' Administration has received from the insured a request in writing for payment of dividends in cash or that the dividends be placed on deposit in accordance with the provisions of his policy, any regular annual dividends shall be applied in payment of premiums becoming due on insurance after the date the dividend is payable on or after December 31, 1958.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1159.)

§ 747. Incontestability

Subject to the provisions of section 754 of this title all contracts or policies of insurance heretofore or hereafter issued, reinstated, or converted shall be incontestable from the date of issuance, reinstatement, or conversion, except for fraud, nonpayment of premiums, or on the ground that the applicant was not a member of the military or naval forces of the United States. The insured under such contract or policy may, without prejudicing his rights, elect to make claim to the Veterans' Administration or to bring suit under section 784 of this title on any prior contract or policy, and if found entitled thereto, shall, upon surrender of any subsequent contract or policy, be entitled to payments under the prior contract or policy. In any case in which a contract or policy of insurance is canceled or voided after March 16, 1954, because of fraud, the Administrator shall refund to the insured, if living, or, if deceased, to the person designated as beneficiary (or if none survives, to the estate of the insured) all money, without interest, paid as premiums on such contract or policy for any period subsequent to two years after the date such fraud induced the Veterans' Administration to issue, reinstate, or convert such insurance less any dividends, loan, or other payment made to the insured under such contract or policy.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1159.)

§ 748. Total disability provision

The Administrator shall include in United States Government life insurance policies provision whereby an insured, who is totally disabled as a result of disease or injury for a period of four consecutive months or more before attaining the age of sixty-five years and before default in payment of any premium, shall be paid disability benefits at the rate of $5.75 monthly for each $1,000 of insurance in force when total disability benefits become payable. The amount of such monthly payment under the provisions of this section shall not be reduced because of payment of permanent and total disability benefits under the insurance policy. Such payments shall be effective as of the first day of the fifth consecutive month, and shall be made monthly during the continuance of such total disability. Such payments shall be concurrent with or independent of permanent and total disability benefits under the insurance policy. In addition to the monthly disability benefits the payment of premiums on the life insurance and for the total disability benefits authorized by this section shall be waived during the continuance of such total disability. Regulations shall provide for reexaminations of beneficiaries under this section; and, in the event that it is found that an insured is no longer totally disabled, the waiver of premiums and payment of benefits shall cease and the insurance policy, including the total disability provision, may be continued by payment of premiums as provided in said policy and the total disability provision. Neither the

dividends nor the amount payable in any settlement under any United States Government life insurance policy shall be decreased because of disability benefits granted under the provisions of this section. The payment of total disability benefits shall not prejudice the right of any insured, who is totally and permanently disabled, to permanent and total disability benefits under his insurance policy. The provision authorized by this section shall not be included in any United States Government life insurance policy heretofore or hereafter issued, except upon application, payment of permium[1] by the insured, and proof of good health satisfactory to the Administrator. The benefit granted under this section shall be on the basis of multiples of $500, and not less than $1,000 or more than the amount of insurance in force at time of application. The Administrator shall determine the amount of the monthly premium to cover the benefits of this section, and in order to continue such benefits in force the monthly premiums shall be payable until the insured attains the age of sixty-five years or until the prior maturity of the policy. In all other respects such monthly premium shall be payable under the same terms and conditions as the regular monthly premium on the United States Government life insurance policy.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1159.)

§ 749. Change of beneficiary

Subject to regulations, the insured shall at all times have the right to change the beneficiary or beneficiaries of a United States Government life insurance policy without the consent of such beneficiary or beneficiaries.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1160.)

§ 750. Payment to estates

If no beneficiary of insurance is designated by the insured, either in his lifetime or by his last will and testament, or if the designated beneficiary does not survive the insured, then there shall be paid to the estate of the insured the present value of the remaining unpaid monthly installments. If the designated beneficiary survives the insured and dies before receiving all of the installments of insurance payable and applicable, then there shall be paid to the estate of such beneficiary the present value of the remaining unpaid monthly installments. No payments shall be made to any estate which under the laws of the residence of the insured or the beneficiary, as the case may be, would escheat, but same shall escheat to the United States and be credited to the United States Government Life Insurance Fund.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1160.)

§ 751. Payment of insurance

United States Government life insurance, except as provided in this subchapter, shall be payable in two hundred and forty equal monthly installments. When the amount of an individual monthly payment is less than $5, such amount may in the discretion of the Administrator be allowed to accumulate without interest and be disbursed annually.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1161.)

§ 752. Optional settlement

(a) The Administrator may provide in insurance contracts for optional settlements, to be selected by the insured, whereby such insurance may be made payable either in one sum or in installments for thirty-six months or more. A provision may also be included in such contracts authorizing the beneficiary to elect to receive payment of the insurance in installments for thirty-six months or more, but only if the insured has not exercised his right of election as provided in this subchapter. Even through the insured may have exercised his right of election the beneficiary may elect to receive such insurance in installments spread over a greater period of time than that selected by the insured.

(b) Under such regulations as the Administrator may promulgate, the cash surrender value of any policy of insurance or the proceeds of an endowment contract which matures by reason of completion of the endowment period may be paid to the insured (1) in equal monthly installments of from thirty-six to two hundred and forty in number, in multiples of twelve; or (2) as a refund life income in monthly installments payable for such periods certain as may be required in order that the sum of the installments certain, including a last installment of such reduced amount as may be necessary, shall equal the cash value of the contract, less any indebtedness, with such payments continuing throughout the lifetime of the insured. However, all settlements under option (2) above shall be calculated on the basis of The Annuity Table for 1949. If the option selected requires payment of monthly installments of less than $10, the amount payable shall be paid in such maximum number of monthly installments as are a multiple of twelve as will provide a monthly installment of not less than $10.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1161; Pub. L. 91–291, § 12, June 25, 1970, 84 Stat. 332.)

Amendments

1970—Pub. L. 91–291 designated existing provisions as subsec. (a) and added subsec. (b).

Effective Date of 1970 Amendment

Amendment by Pub. L. 91–291 effective as of the first day of the first calendar month which begins more than six calendar months after June 25, 1970, see section 14(a) of Pub. L. 91–291, set out as an Effective Date of 1970 Amendment note under section 417 of this title.

§ 753. Assignments

Any person to whom United States Government life insurance shall be payable may assign his interest in such insurance to the spouse, child, grandchild, parent, brother, sister, uncle, aunt, nephew, niece, brother-in-law, or sister-in-law of the insured. Insofar as applicable, the definitions contained in section 3 of the World War Veterans' Act, 1924, in effect on December 31, 1958, shall apply to this section.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1161.)

[1] So in original. Probably should be "premium".

REFERENCES IN TEXT

Section 3 of the World War Veterans' Act, 1924, referred to in text, is section 3 of act June 7, 1924, ch. 320, 43 Stat. 607, which was classified to section 424 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed and the provisions thereof reenacted as section 101 of this title by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1105.

§ 754. Forfeiture

No yearly renewable term insurance or United States Government life insurance shall be payable for death inflicted as a lawful punishment for crime or military offense, except when inflicted by the enemy. In such cases the cash surrender value of United States Government life insurance, if any, on the date of such death shall be paid to the designated beneficiary if living, or if there be no designated beneficiary alive at the death of the insured the said value shall be paid to the estate of the insured.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1161.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 747 of this title.

§ 755. United States Government Life Insurance Fund

(a) All premiums paid on account of United States Government life insurance shall be deposited and covered into the Treasury to the credit of the United States Government Life Insurance Fund and shall be available for the payment of losses, dividends, refunds, and other benefits provided for under such insurance, including such liabilities as shall have been or shall hereafter be reduced to judgment in a district court of the United States or the United States District Court for the District of Columbia. Payments from this fund shall be made upon and in accordance with awards by the Administrator.

(b) The Administrator is authorized to set aside out of the funds so collected such reserve funds as may be required, under accepted actuarial principles, to meet all liabilities under such insurance; and the Secretary of the Treasury is authorized to invest and reinvest the said United States Government Life Insurance Fund, or any part thereof, in interest-bearing obligations of the United States or bonds of the Federal farm-loan banks and to sell said obligations of the United States or the bonds of the Federal farm-loan banks for the purposes of such Fund.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1161.)

§ 756. Military and naval insurance appropriation

All sums heretofore or hereafter appropriated for the military and naval insurance appropriation and all premiums collected for yearly renewable term insurance deposited and covered into the Treasury to the credit of this appropriation shall be made available to the Veterans' Administration. All premiums that may hereafter be collected for yearly renewable term insurance shall be deposited and covered into the Treasury for the credit of this appropriation. Such sum is made available for the payment of the liabilities of the United States incurred under contracts of yearly renewable term insurance. Payments from this appropriation shall be made upon and in accordance with the awards by the Administrator.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1162.)

§ 757. Extra hazard costs

(a) The United States shall bear the excess mortality and disability cost resulting from the hazards of war on United States Government life insurance.

(b) Whenever benefits under United States Government life insurance become, or have become, payable because of total permanent disability of the insured or because of the death of the insured as a result of disease or injury traceable to the extra hazard of the military or naval service, as such hazard may be determined by the Administrator, the liability shall be borne by the United States. In such cases the Administrator shall transfer from the military and naval insurance appropriation to the United States Government Life Insurance Fund a sum which, together with the reserve of the policy at the time of maturity by total permanent disability or death, will equal the then value of such benefits. When a person receiving total permanent disability benefits under a United States Government life insurance policy recovers from such disability and is then entitled to continue a reduced amount of insurance, the Administrator shall transfer to the military and naval insurance appropriation all of the loss reserve to the credit of such policy claim except a sum sufficient to set up the then required reserve on the reduced amount of the insurance that may be continued, which sum shall be retained in the United States Government Life Insurance Fund for the purpose of such reserve.

(c) Whenever benefits under the total disability provision become, or have become, payable because of total disability of the insured as a result of disease or injury traceable to the extra hazard of the military or naval service, as such hazard may be determined by the Administrator, the liability shall be borne by the United States, and the Administrator shall transfer from the military and naval insurance appropriation to the United States Government Life Insurance Fund from time to time any amounts which become or have become payable to the insured on account of such total disability, and shall transfer from the United States Government Life Insurance Fund to the military and naval insurance appropriation the amount of the reserve held on account of the total disability benefit. When a person receiving such payments on account of total disability recovers from such disability and is then entitled to continued protection under the total disability provision, the Administrator shall transfer to the United States Government Life Insurance Fund a sum sufficient to set up the then required reserve on such total disability benefit.

(d) Any disability for which a waiver was required as a condition to tendering a person a commission under Public Law 816, Seventy-seventh Congress, shall be deemed to be a disability resulting from an injury or disease traceable to the extra hazard of military or naval service for the purpose of applying this section.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1162.)

REFERENCES IN TEXT

Public Law 816, 77th Cong., referred to in subsec. (d), is act Dec. 18, 1942, ch. 768, §§ 1, 2, 56 Stat. 1066. Section 1 of that Act enacted section 853c-5 of former Title 34, Navy, and was repealed by act July 9, 1952, ch. 608, pt. VIII, § 803, 66 Stat. 505. Section 2 of that Act enacted section 853c-6 of former Title 34, and was omitted from the Code in the general revision and reenactment of Title 10, Armed Forces, by act Aug. 10, 1956, ch. 1041, 70A Stat. 1.

§ 758. Statutory total permanent disability

Without prejudice to any other cause of disability, the permanent loss of the use of both feet, of both hands, or of both eyes, or of one foot and one hand, or of one foot and one eye, or of one hand and one eye, or the loss of hearing of both ears, or the organic loss of speech, shall be deemed total permanent disability for insurance purposes. This section shall be deemed to be in effect on and after April 6, 1917, and shall apply only to automatic insurance, yearly renewable term insurance, and United States Government life insurance issued prior to December 15, 1936.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1163.)

§ 759. Waiver of disability for reinstatement

(a) In the event that all provisions of the rules and regulations other than the requirements as to the physical condition of the applicant have been complied with, an application for reinstatement, in whole or in part, of lapsed United States Government life insurance may be approved if made within two years after the date of lapse and if the applicant's disability is the result of an injury or disease, or of an aggravation thereof, suffered or contracted in the active military or naval service during the period beginning April 6, 1917, and ending July 2, 1921, and the applicant during his lifetime submits proof satisfactory to the Administrator showing that he is not totally and permanently disabled. As a condition to the acceptance of an application for reinstatement under this section, the applicant shall be required to pay all the back monthly premiums which would have become payable if such insurance had not lapsed, together with interest at the rate of 5 per centum per annum, compounded annually, on each premium from the date said premium is due by the terms of the policy.

(b) Premium liens established under the provisions of section 304 of the World War Veterans' Act, 1924, shall continue to bear interest at the rate of 5 per centum per annum, compounded annually, and will be deducted from any settlement of insurance to which they are attached.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1163.)

REFERENCES IN TEXT

Section 304 of the World War Veteran's Act, 1924, referred to in subsec. (b) was section 304 of act June 7, 1924, ch. 320, title III, 43 Stat. 625, which enacted section 515 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed and the provisions thereof reenacted as this section by Pub. L. 85-857, § 14(51), Sept. 2, 1958, 72 Stat. 1271.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 31 section 124.

§ 760. Waiver of premium payments on due date

(a) The Administrator is authorized to provide by regulations for waiving the payment of premiums on United States Government life insurance on the due date thereof and the insurance may be deemed not to lapse in the cases of the following persons: (1) those who are confined in hospital under the Veterans' Administration for a compensable disability during the period while they are so confined; (2) those who are rated as temporarily totally disabled by reason of any injury or disease entitling them to compensation during the period of such total disability and while they are so rated; (3) those who, while mentally incompetent and for whom no legal guardian had been or has been appointed, allowed or may allow their insurance to lapse during the period for which they have been or hereafter may be rated mentally incompetent, or until a guardian has notified the Veterans' Administration of his qualification, but not later than six months after appointment of a guardian. In mentally incompetent cases the waiver is to be made without application and retroactive when necessary. Relief from payment of premiums on the due date thereof shall be for full calendar months, beginning with the month in which said confinement to hospital, the temporary total disability rating, or the mental incompetency began or begins and ending with that month during the half or major fraction of which such persons are no longer entitled to waiver as provided above.

(b) All premiums the payment of which when due is waived as provided in this section shall bear interest at the rate of 5 per centum per annum, compounded annually, from the due date of each premium, and if not paid by the insured shall be deducted from the insurance in any settlement thereunder, or when the same matures either because of permanent total disability or death. In the event any lien or other indebtedness established by this section or prior corresponding provision of law exists against any policy of United States Government life insurance in excess of the then cash surrender value thereof at the time of the termination of such policy of insurance for any reason other than by death or total permanent disability the Administrator is authorized to transfer and pay from the military and naval insurance appropriation to the United States Government Life Insurance Fund a sum equal to the amount such lien or indebtedness exceeds the then cash surrender value.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1163.)

SUBCHAPTER III—SERVICEMEN'S GROUP LIFE INSURANCE

§ 765. Definitions

For the purpose of this subchapter—

(1) The term "active duty" means—

(A) full-time duty in the Armed Forces, other than active duty for training;

(B) full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service;

(C) full-time duty as a commissioned officer of the National Oceanic and Atmospheric Administration; and

(D) full-time duty as a cadet or midshipman at the United States Military Academy, United States Naval Academy, United States Air Force Academy, or the United States Coast Guard Academy.

(2) The term "active duty for training" means—

(A) full-time duty in the Armed Forces performed by Reserves for training purposes;

(B) full-time duty for training purposes performed as a commissioned officer of the Reserve Corps of the Public Health Service;

(C) full-time duty as a member, cadet, or midshipman of the Reserve Officers Training Corps while attending field training or practice cruises; and

(D) in the case of members of the National Guard or Air National Guard of any State, full-time duty under sections 316, 502, 503, 504, or 505 of title 32, United States Code.

(3) The term "inactive duty training" means—

(A) duty (other than full-time duty) prescribed or authorized for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) which duty is scheduled in advance by competent authority to begin at a specific time and place; and

(B) in the case of a member of the National Guard or Air National Guard of any State, such term means duty (other than full-time duty) which is scheduled in advance by competent authority to begin at a specific time and place under sections 316, 502, 503, 504, or 505 of title 32, United States Code.

(4) The terms "active duty for training" and "inactive duty training" do not include duty performed as a temporary member of the Coast Guard Reserve, and the term "inactive duty training" does not include (i) work or study performed in connection with correspondence courses, or (ii) attendance at an educational institution in an inactive status.

(5) The term "member" means—

(A) a person on active duty, active duty for training, or inactive duty training in the uniformed services in a commissioned, warrant, or enlisted rank, or grade, or as a cadet or midshipman of the United States Military Academy, United States Naval Academy, United States Air Force Academy, or the United States Coast Guard Academy;

(B) a person who volunteers for assignment to the Ready Reserve of a uniformed service and is assigned to a unit or position in which he may be required to perform active duty, or active duty for training, and each year will be scheduled to perform at least twelve periods of inactive duty training that is creditable for retirement purposes under chapter 67 of title 10;

(C) a person assigned to, or who upon application would be eligible for assignment to, the Retired Reserve of a uniformed service who has not received the first increment of retirement pay or has not yet reached sixty-one years of age and has completed at least twenty years of satisfactory service creditable for retirement purposes under chapter 67 of title 10; and

(D) a member, cadet, or midshipman of the Reserve Officers Training Corps while attending field training or practice cruises.

(6) The term "uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

(7) The terms "widow" or "widower" means a person who is the lawful spouse of the insured member at the time of his death.

(8) The term "child" means a legitimate child, a legally adopted child, an illegitimate child as to the mother, or an illegitimate child as to the alleged father, only if (a) he acknowledged the child in writing signed by him; or (b) he has been judicially ordered to contribute to the child's support, or (c) he has been, before his death, judicially decreed to be the father of such child; or (d) proof of paternity is established by a certified copy of the public record of birth or church record of baptism showing that the insured was the informant and was named as father of the child; or (e) proof of paternity is established from service department or other public records, such as school or welfare agencies, which show that with his knowledge the insured was named as the father of the child.

(9) The term "parent" means a father of a legitimate child, mother of a legitimate child, father through adoption, mother through adoption, mother of an illegitimate child, and father of an illegitimate child but only if (a) he acknowledged paternity of the child in writing signed by him before the child's death; or (b) he has been judicially ordered to contribute to the child's support; or (c) he has been judicially decreed to be the father of such child; or (d) proof of paternity is established by a certified copy of the public record of birth or church record of baptism showing that the claimant was the informant and was named as father of the child; or (e) proof of paternity is established from service department or other public records, such as school or welfare agencies, which show that with his knowledge the claimant was named as father of the child. No person who abandoned or willfully failed to support a child during his minority, or consented to his adoption may be recognized as a parent for the purpose of this subchapter. However, the immediately preceding sentence shall not be applied so as to require duplicate payments in any case in which insurance benefits have been paid prior to receipt in the administrative office established under subsection 766(b) of this title of sufficient evidence to clearly establish that the person so paid could not qualify as a parent solely by reason of such sentence.

(Added Pub. L. 89-214, § 1(a), Sept. 29, 1965, 79 Stat. 880, and amended Pub. L. 91-291, § 1, June

25, 1970, 84 Stat. 326; Pub. L. 92-185, § 1, Dec. 15, 1971, 85 Stat. 642; Pub. L. 92-315, June 20, 1972, 86 Stat. 227; Pub. L. 93-289, §§ 3, 10(1), May 24, 1974, 88 Stat. 165, 172.)

AMENDMENTS

1974—Par. (1)(C). Pub. L. 93-289, § 10(1), substituted "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration".

Par. (5). Pub. L. 93-289, § 3, added cls. (B) and (C), redesignated former cl. (B) as (D), and substituted "midshipman of" for "midshipman at" in cl. (A).

Par. (6). Pub. L. 93-289, § 10(1), substituted "National Oceanic and Atmospheric Administration" for "Environmental Science Services Administration"

1972—Par. (1)(D). Pub. L. 92-315, § 1(3), added cl. (D).

Par. (5)(A). Pub. L. 92-315, § 1(4), expanded the definition of "member" to include persons in active duty as a cadet or midshipman at the United States Military Academy, United States Naval Academy, United States Air Force Academy and the United States Coast Guard Academy.

1971—Pars. (7) to (9). Pub. L. 92-185 added pars. (7) to (9) defining, respectively, "widow" or "widower", "child", and "parent".

1970—Pub. L. 91-291 struck out from the definition of "active duty" a reference to calls or orders to duty which specify a period of 30 days or less, added definitions for "active duty for training" and "inactive duty training", and, in the definition of "uniformed services", added provisions limiting the scope of that term in the case of personnel of the Public Health Service and the Environmental Science Services Administration to the commissioned corps thereof respectively.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 12(2) of Pub. L. 93-289 provided that: "The amendments relating to Servicemen's Group Life Insurance coverage on a full-time basis for certain members of the Reserves and National Guard shall become effective upon the date of enactment of this Act [May 24, 1974]."

EFFECTIVE DATE OF 1971 AMENDMENT

Section 2 of Pub. L. 92-185 provided that: "The provisions of this Act [amending this section] shall apply only to Servicemen's Group Life Insurance in effect on the life of an insured member who dies on or after the date of enactment of this Act [Dec. 15, 1971]."

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-291 effective June 25, 1970, see section 14(a) of Pub. L. 91-291, set out as an Effective Date of 1970 Amendment note under section 417 of this title.

Section 14(b) of Pub. L. 91-291 provided that: "The provisions of section 765(7), (8), and (9) of title 38, United States Code, as added by the first section of this Act shall apply only to servicemen's group life insurance in effect on the life of an insured member who dies on and after the date of enactment of this Act [June 25, 1970]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 767, 768, 769, 770 of this title.

§ 766. Eligible insurance companies

(a) The Administrator is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of group life insurance to provide the benefits specified in this subchapter. Each such life insurance company must (1) be licensed to issue life insurance in each of the fifty States of the United States and in the District of Columbia, and (2) as of the most recent December 31 for which information is available to the Administrator, have in effect at least 1 per centum of the total amount of group life insurance which all life insurance companies have in effect in the United States.

(b) The life insurance company or companies issuing such policy or policies shall establish an administrative office at a place and under a name designated by the Administrator.

(c) The Administrator shall arrange with the life insurance company or companies issuing any policy or policies under this subchapter to reinsure, under conditions approved by him, portions of the total amount of insurance under such policy or policies with such other life insurance companies (which meet qualifying criteria set forth by the Administrator) as may elect to participate in such reinsurance.

(d) The Administrator may at any time discontinue any policy or policies which he has purchased from any insurance company under this subchapter.

(Added Pub. L. 89-214, § 1(a), Sept. 29, 1965, 79 Stat. 880.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 765, 767, 768, 769, 770, 771, 772, 777 of this title.

§ 767. Persons insured; amount

(a) Any policy of insurance purchased by the Administrator under section 766 of this title shall automatically insure against death—

(1) any member of a uniformed service on active duty, active duty for training, or inactive duty training scheduled in advance by competent authority;

(2) any member of the Ready Reserve of a uniformed service who meets the qualifications set forth in section 765(5)(B) of this title; and

(3) any member assigned to, or who upon application would be eligible for assignment to, the Retired Reserve of a uniformed service who meets the qualifications set forth in section 765(5)(C) of this title;

in the amount of $20,000 unless such member elects in writing (A) not to be insured under this subchapter, or (B) to be insured in the amount of $15,000, $10,000, or $5,000. The insurance shall be effective the first day of active duty or active duty for training, or the beginning of a period of inactive duty training scheduled in advance by competent authority, or the first day a member of the Ready Reserve meets the qualifications set forth in section 765(5)(B) of this title, or the first day a member of the Reserves, whether or not assigned to the Retired Reserve of a uniformed service, meets the qualifications of section 765(5)(C) of this title, or the date certified by the Administrator to the Secretary concerned as the date Servicemen's Group Life Insurance under this subchapter for the class or group concerned takes effect, whichever is the later date.

(b) Any member (other than one who has elected not to be insured under this subchapter for the period or periods of duty involved)—

(1) who, when authorized or required by competent authority, assumes an obligation to perform (for less than thirty-one days) active duty, or active duty for training, or inactive duty training scheduled in advance by competent authority; and

(2) who is rendered uninsurable at standard premium rates according to the good health standards approved by the Administrator, or dies within one hundred and twenty days thereafter, from a disability, or aggravation of a preexisting disability, incurred by him while proceeding directly to or returning directly from such active duty, active duty for training, or inactive duty training as the case may be;

shall be deemed to have been on active duty, active duty for training, or inactive duty training, as the case may be, and to have been insured under this subchapter at the time such disability was incurred or aggravated, and if death occurs within one hundred and twenty days thereafter as a result of such disability to have been insured at the time of death. In determining whether or not such individual was so authorized or required to perform such duty, and whether or not he was rendered uninsurable or died within one hundred and twenty days thereafter from a disability so incurred or aggravated, there shall be taken into account the call or order to duty, the orders and authorizations of competent authority, the hour on which the member began to so proceed or to return, the hour on which he was scheduled to arrive for, or on which he ceased to perform such duty; the method of travel employed; his itinerary; the manner in which the travel was performed; and the immediate cause of disability or death. Whenever any claim is filed alleging that the claimant is entitled to benefits by reason of this subsection, the burden of proof shall be on the claimant.

(c) If any member elects not to be insured under this subchapter or to be insured in the amount of $15,000, $10,000, or $5,000, he may thereafter be insured under this subchapter or insured in the amount of $20,000, $15,000, or $10,000 under this subchapter, as the case may be, upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Administrator. Any former member insured under Veterans' Group Life Insurance who again becomes eligible for Servicemen's Group Life Insurance and declines such coverage solely for the purpose of maintaining his Veterans' Group Life Insurance in effect shall upon termination of coverage under Veterans' Group Life Insurance be automatically insured under Servicemen's Group Life Insurance, if otherwise eligible therefor.

(Added Pub. L. 89-214, § 1(a), Sept. 29, 1965, 79 Stat. 881, and amended Pub. L. 91-291, § 2, June 25, 1970, 84 Stat. 327; Pub. L. 93-289, § 4, May 24, 1974, 88 Stat. 166.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-289, § 4(1), authorized insurance for any member of the Ready Reserve who meets the qualifications set forth in section 765(5)(B) of this title, and any member assigned to, or who upon application would be eligible for assignment to, the Retired Reserve who meets the qualifications set forth in section 765(5)(C) of this title, increased the amount of insurance from $15,000 to $20,000, permitted a member to elect to be insured for $15,000, and prescribed the effective dates of insurance for members of the Ready Reserve and members of the Reserves, whether or not assigned to the Retired Reserves.

Subsec. (b). Pub. L. 93-289, § 4(2), substituted "one hundred and twenty days" for "ninety days" in three instances.

Subsec. (c). Pub. L. 93-289, § 4(3), inserted provisions authorizing members who elected to be insured in the amounts of $15,000, $10,000, or $5,000 to increase the amount of insurance to $20,000, and inserted sentence providing for automatic insurance for former members insured under Veterans' Group Life Insurance who decline coverage under the Servicemen's Group Life Insurance.

1970—Subsec. (a). Pub. L. 91-291 increased from $10,000 to $15,000 the maximum amount of insurance authorized for members of the uniformed services and inserted references to active duty for training and inactive duty training scheduled in advance by competent authority.

Subsec. (b). Pub. L. 91-291 added subsec. (b). Former subsec. (b) redesignated as subsec. (c) and amended.

Subsec. (c). Pub. L. 91-291 redesignated former subsec. (b) as subsec. (c) and, in subsec. (c) as so redesignated, added provisions reflecting the increase from $10,000 to $15,000 in the maximum available insurance for members of the uniformed services.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 12(3) of Pub. L. 93-289 provided that: "The amendments increasing the maximum amount of Servicemen's Group Life Insurance shall become effective upon the date of enactment of this Act [May 24, 1974]."

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-291 effective June 25, 1970, see section 14(a) of Pub. L. 91-291, set out as an Effective Date of 1970 Amendment note under section 417 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 768 of this title.

§ 768. Duration and termination of coverage; conversion

(a) Each policy purchased under this subchapter shall contain a provision, in terms approved by the Administrator, to the effect that any insurance thereunder on any member of the uniformed services, unless discontinued or reduced upon the written request of the insured, shall continue in effect while the member is on active duty, active duty for training, or inactive duty training scheduled in advance by competent authority during the period thereof, or while the member meets the qualifications set forth in section 765(5)(B) or (C) of this title, and such insurance shall cease—

(1) with respect to a member on active duty or active duty for training under a call or order to duty that does not specify a period of less than thirty-one days—

(A) one hundred and twenty days after the separation or release from active duty or active duty for training, unless on the date of such separation or release the member is totally disabled, under criteria established by the Administrator, in which event the insurance shall cease one year after the date of separation or release from such active duty or active duty for training,

or on the date the insured ceases to be totally disabled, whichever is the earlier date, but in no event prior to the expiration of one hundred and twenty days after such separation or release; or

(B) at the end of the thirty-first day of a continuous period of (i) absence without leave, (ii) confinement by civil authorities under a sentence adjudged by a civilian court, or (iii) confinement by military authorities under a courtmartial sentence involving total forfeiture of pay and allowances. Any insurance so terminated as the result of such an absence or confinement, together with any beneficiary designation in effect for such insurance at such termination thereof, shall be automatically revived as of the date the member is restored to active duty with pay or to active duty for training with pay.

(2) with respect to a member on active duty or active duty for training under a call or order to duty that specifies a period of less than thirty-one days insurance under this subchapter shall cease at midnight, local time, on the last day of such duty, unless on such date the insured is suffering from a disability incurred or aggravated during such period which, within one hundred and twenty days after such date, (i) results in his death, or (ii) renders him uninsurable at standard premium rates according to the good health standards approved by the Administrator, in which event the insurance shall continue in force to death, or for one hundred and twenty days after such date, whichever is the earlier date.

(3) with respect to a member on inactive duty training scheduled in advance by competent authority insurance under this subchapter shall cease at the end of such scheduled training period, unless at such time the insured is suffering from a disability incurred, or aggravated during such period which, within one hundred and twenty days after the date of such training, (i) results in his death, or (ii) renders him uninsurable at standard premium rates according to the good health standards approved by the Administrator in which event the insurance shall continue in force to death, or for one hundred and twenty days after the date such training terminated, whichever is the earlier date.

(4) with respect to a member of the Ready Reserve of a uniformed service who meets the qualifications set forth in section 765(5)(B) of this title, one hundred and twenty days after separation or release from such assignment—

(A) unless on the date of such separation or release the member is totally disabled, under criteria established by the Administrator, in which event the insurance shall cease one year after the date of separation or release from such assignment, or on the date the insured ceases to be totally disabled, whichever is the earlier date, but in no event prior to the expiration of one hundred and twenty days after separation or release from such assignment; or

(B) unless on the date of such separation or release the member has completed at least twenty years of satisfactory service creditable for retirement purposes under chapter 67 of title 10 and would upon application be eligible for assignment to or is assigned to the Retired Reserve, in which event the insurance, unless converted to an individual policy under terms and conditions set forth in section 777(e) of this title, shall, upon timely payment of premiums under terms prescribed by the Administrator directly to the administrative office established under section 766(b) of this title, continue in force until receipt of the first increment of retirement pay by the member or the member's sixty-first birthday, whichever occurs earlier.

(5) with respect to a member of the Retired Reserve who meets the qualifications of section 765(5)(C) of this title, and who was assigned to the Retired Reserve prior to the date insurance under this amendment is placed in effect for members of the Retired Reserve, at such time as the member receives the first increment of retirement pay, or the member's sixty-first birthday, whichever occurs earlier, subject to the timely payment of the initial and subsequent premiums, under terms prescribed by the Administrator, directly to the administrative office established under section 766(b) of this title.

(b) Each policy purchased under this subchapter shall contain a provision, in terms approved by the Administrator, that, except as hereinafter provided, Servicemen's Group Life Insurance which is continued in force after expiration of the period of duty or travel under section 767(b) or 768(a) of this title, effective the day after the date such insurance would cease, shall be automatically converted to Veterans' Group Life Insurance subject to (1) the timely payment of the initial premium under terms prescribed by the Administrator, and (2) the terms and conditions set forth in section 777 of this title. Such automatic conversion shall be effective only in the case of an otherwise eligible member or former member who is separated or released from a period of active duty or active duty for training or inactive duty training on or after the date on which the Veterans' Group Life Insurance program (provided for under section 777 of this title) becomes effective. Servicemen's Group Life Insurance continued in force under section 768(a)(4)(B) or (5) of this title shall not be converted to Veterans' Group Life Insurance. However, a member whose insurance could be continued in force under section 768(a)(4)(B) of this title, but is not so continued, may, effective the day after his insurance otherwise would cease, convert such insurance to an individual policy under the terms and conditions set forth in section 777(e) of this title.

(Added Pub. L. 89-214, § 1(a), Sept. 29, 1965, 79 Stat. 881, and amended Pub. L. 91-291, § 3, June 25, 1970, 84 Stat. 328; Pub. L. 93-289, § 5(a), May 24, 1974, 88 Stat. 166.)

REFERENCES IN TEXT

The words "this amendment" appearing in subsec. (a)(5), probably refer to the amendment made by Pub. L. 93-289 to this chapter.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-289, § 5(a)(1) to (3), inserted in the opening provisions "or while the member meets the qualifications set forth in section 765(5)(B) or (C) of this title,", substituted "one hundred and twenty days" for "ninety days" wherever appearing in clauses (2) and (3), and added clauses (4) and (5).

Subsec. (b). Pub. L. 93-289, § 5(a)(4), substituted provisions requiring policies of Servicemen's Group Life Insurance to contain a provision automatically converting such policy to Veterans' Group Life Insurance, for provisions which required such policies to contain a provision for conversion to an individual policy of insurance, and inserted sentences providing for the effective date of automatic conversion, prohibiting conversion of Servicemen's Group Life Insurance continued in force under section 768(a)(4)(B) or (5) of this title, and authorizing conversion by a member whose insurance could be continued in force under section 768(a)(4)(B) of this title, but is not so continued.

Subsec. (c). Pub. L. 93-289, § 5(a)(5), repealed subsec. (c) which related to conversion by eligible insured persons to policies written by companies particpating in the program established by this subchapter.

1970—Subsec. (a). Pub. L. 91-291 designated existing provisions as subsec. (a) and, in subsec. (a), as so designated, substituted provisions covering the duration of coverage for provisions covering termination of coverage. For termination and conversion of insurance see subsecs. (b) and (c) of this section.

Subsecs. (b), (c). Pub. L. 91-291 added subsecs. (b) and (c).

EFFECTIVE DATE OF 1974 AMENDMENT

Section 12(4) of Pub. L. 93-289 provided that: "The amendments made by sections 5(a)(4) and (5) of this Act [amending subsec. (b) of this section and repealing subsec. (c) of this section], and those enacting a Veterans' Group Life Insurance program [sections 777, 778 and 779 of this title] shall become effective on the first day of the third calendar month following the month in which this Act is enacted [May 1974]."

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-291 effective June 25, 1970, see section 14(a) of Pub. L. 91-291, set out as an Effective Date of 1970 Amendment note under section 417 of this title.

RIGHT OF PERSONS DISCHARGED OR RELEASED FROM UNIFORMED SERVICES TO CONVERT SERVICEMEN'S GROUP LIFE INSURANCE TO INDIVIDUAL POLICIES

Section 5(b) of Pub. L. 93-289 provided that: "The amendments made by this Act [enacting sections 777, 778 and 779 of this title and section 707 of title 37, and amending sections 723, 765, 767, 768, 769, 770, 771 and 774 of this title] shall not be construed to deprive any person discharged or released from the uniformed services of the United States prior to the date on which the Veterans' Group Life Insurance program (provided for under section 777 of title 38, United States Code) becomes effective of the right to convert Servicemen's Group Life Insurance to an individual policy under the provisions of law in effect prior to such effective date."

§ 769. Deductions; payment; investment; expenses

(a)(1) During any period in which a member, on active duty or active duty for training under a call or order to such duty that does not specify a period of less than thirty-one days, is insured under Servicemen's Group Life Insurance, there shall be deducted each month from his basic or other pay until separation or release from such duty an amount determined by the Administrator (which shall be the same for all such members) as the share of the cost attributable to insuring such member under such policy, less any costs traceable to the extra hazard of such duty in the uniformed service.

(2) During any month in which a member is assigned to the Ready Reserve of a uniformed service under conditions which meet the qualifications of section 765(5)(B) of this title, or is assigned to the Reserve (other than the Retired Reserve) and meets the qualifications of section 765(5)(C) of this title, and is insured under a policy of insurance purchased by the Administrator, under section 766 of this title, there shall be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Administrator (which shall be the same for all such members) as the share of the cost attributable to insuring such member under this policy, less any costs traceable to the extra hazards of such duty in the uniformed services. Any amounts so contributed on behalf of any individual shall be collected by the Secretary concerned from such individual (by deduction from pay or otherwise) and shall be credited to the appropriation from which such contribution was made.

(3) During any fiscal year, or portion thereof, that a member is on active duty or active duty for training under a call or order to such duty that specifies a period of less than thirty-one days, or is authorized or required to perform inactive duty training scheduled in advance by competent authority, and is insured under Servicemen's Group Life Insurance, the Secretary concerned shall collect from him (by deduction from pay or otherwise) an amount determined by the Administrator (which shall be the same for all such members) as the share of the cost attributable to insuring member under such policy, less any costs traceable to the extra hazard of such duty in the uniformed service.

(4) Any amount not deducted from the basic or other pay of a member insured under Servicemen's Group Life Insurance, or collected from him by the Secretary concerned, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial monthly amount under paragraph (1) or (2) hereof, or fiscal year amount under paragraph (3) hereof, determined by the Administrator to be charged under this section for Servicemen's Group Life Insurance may be continued from year to year, except that the Administrator may redetermine such monthly or fiscal year amounts from time to time in accordance with experience. No refunds will be made to any member of any amount properly deducted from his basic or other pay, or collected from him by the Secretary concerned, to cover the insurance granted under Servicemen's Group Life Insurance.

(b) For each month for which any member is so insured, there shall be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Administrator and certified to the Secretary concerned to be the cost of Servicemen's Group Life Insurance which is traceable to the extra hazard of duty in the uniformed services. Effective January 1, 1970, such cost shall be determined by the Administrator on the basis of the excess mortality incurred by members and former members of the uni-

formed services insured under Servicemen's Group Life Insurance above what their mortality would have been under peacetime conditions as such mortality is determined by the Administrator using such methods and data as he shall determine to be reasonable and practicable. The Administrator is authorized to make such adjustments regarding contributions from pay appropriations as may be indicated from actual experience.

(c) An amount equal to the first amount due on Servicemen's Group Life Insurance may be advanced from current appropriations for active-service pay to any such member, which amount shall constitute a lien upon any service or other pay accruing to the person from whom such advance was made and shall be collected therefrom if not otherwise paid. No disbursing or certifying officer shall be responsible for any loss incurred by reason of such advance.

(d)(1) The sums withheld from the basic or other pay of members, or collected from them by the Secretary concerned, under subsection (a) of this section, and the sums contributed from appropriations under subsection (b) of this section, together with the income derived from any dividends or premium rate adjustments received from insurers shall be deposited to the credit of a revolving fund established in the Treasury of the United States. All premium payments and extra hazard costs on Servicemen's Group Life Insurance and the administrative cost to the Veterans' Administration of insurance issued under this subchapter shall be paid from the revolving fund.

(2) The Administrator is authorized to set aside out of the revolving fund such amounts as may be required to meet the administrative costs to the Veterans' Administration of insurance issued under this subchapter and all current premium payments and extra hazard costs on any insurance policy or policies purchased under section 766 of this title. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest such market yield.

(3) Notwithstanding the provisions of section 782 of this title, the Administrator shall, from time to time, determine the administrative costs to the Veterans' Administration which in his judgment are properly allocable to insurance issued under this subchapter and shall transfer such cost from the revolving fund to the appropriation "General Operating Expenses, Veterans' Administration".

(e) The premiums for Servicemen's Group Life Insurance placed in effect or continued in force for a member assigned to the Retired Reserve of a uniformed service who meets the qualifications of section 765(5)(C) of this title, shall be established under the criteria set forth in section 771(a) and (c) of this title, except that the Administrator may provide for average premiums for such various age groupings as he may determine to be necessary according to sound actuarial principles, and shall include an amount necessary to cover the administrative cost of such insurance to the company or companies issuing or continuing such insurance. Such premiums shall be payable by the insureds thereunder as provided by the Administrator directly to the administrative office established for such insurance under section 766(b) of this title. The provisions of sections 771(d) and (e) of this title shall be applicable to Servicemen's Group Life Insurance continued in force or issued to a member assigned to the Retired Reserve of a uniformed service. However, a separate accounting may be required by the Administrator for insurance issued to or continued in force on the lives of members assigned to the Retired Reserve and for other insurance in force under this subchapter. In such accounting, the Administrator is authorized to allocate claims and other costs among such programs of insurance according to accepted actuarial principles.

(Added Pub. L. 89-214, § 1(a), Sept. 29, 1965, 79 Stat. 881, and amended Pub. L. 91-291, § 4, June 25, 1970, 84 Stat. 329; Pub. L. 93-289, §§ 6, 10(2), May 24, 1974, 88 Stat. 168, 172.)

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93-289, § 6(1), substituted "is insured under Servicemen's Group Life Insurance" for "is insured under a policy of insurance purchased by the Administrator, under section 766 of this title."

Subsec. (a)(2). Pub. L. 93-289, § 6(2), added subsec. (a)(2). Former subsec. (a)(2) redesignated (a)(3).

Subsec. (a)(3). Pub. L. 93-289, § 6(1), (2), redesignated former subsec. (a)(2) as (a)(3), and substituted therein "is insured under Servicemen's Group Life Insurance" for "is insured under a policy of insurance purchased by the Administrator, under section 766 of this title." Former subsec. (a)(3) redesignated (a)(4).

Subsec. (a)(4). Pub. L. 93-289, § 6(2), (3), redesignated former subsec. (a)(3) as (a)(4), and substituted therein "paragraph (1) or (2) hereof, or fiscal year amount under paragraph (3) hereof", for "subsection (1) hereof, or fiscal year amount under subsection (2) hereof", and "Servicemen's Group Life Insurance" for "this subchapter" in two instances, and for "insurance under this subchapter".

Subsec. (b). Pub. L. 93-289, § 6(4), substituted "Servicemen's Group Life Insurance" for "such insurance" in first sentence, and "Servicemen's Group Life Insurance" for "this subchapter" in second sentence.

Subsec. (c). Pub. L. 93-289, § 6(5), substituted "Servicemen's Group Life Insurance" for "any such insurance".

Subsec. (d)(1). Pub. L. 93-289, § 6(6), substituted "Servicemen's Group Life Insurance" for "any insurance policy or policies purchased under section 766 of this title".

Subsec. (d)(3). Pub. L. 93-289, § 10(2), capitalized the words "Operating Expenses".

Subsec. (e). Pub. L. 93-289, § 6(7), added subsec. (e).

1970—Subsec. (a). Pub. L. 91-291, § 4(1), separated provisions covering deduction of the cost of insurance from the pay of members into provisions covering

such deduction in the case of persons on active duty or active duty for training under a call or order to such duty that does not specify a period of not less than thirty-one days and provisions covering such deduction in the case of persons on active duty or active duty for training under a call or order to such duty specifying a period of less than thirty-one days or persons authorized or required to perform inactive duty training scheduled in advance by competent authority and added provision for the collection of sums from individuals by the Secretary concerned.

Subsec. (b). Pub. L. 91-291, § 4(1), substituted the mortality which members and former members of the uniform services concerned would have been under peacetime conditions as determined by the Administrator for the mortality of the male civilian population of the United States of the same age as the median age of members of the uniformed services as shown by the records of the uniformed services, the primary insurer or insurers, and the Department of Health, Education, and Welfare as the standard against which the excess mortality suffered by members of the uniformed services would be measured to determine the extent to which the cost of insurance was traceable to the extra hazard of active duty in the uniformed services.

Subsec. (d)(1). Pub. L. 91-291, § 4(2), inserted reference to the collection of sums by the Secretary concerned.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-291 effective June 25, 1970, see section 14(a) of Pub. L. 91-291, set out as an Effective Date of 1970 Amendment note under section 417 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 770, 771 of this title.

§ 770. Beneficiaries; payment of insurance

(a) Any amount of insurance under this subchapter in force on any member or former member on the date of his death shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order of precedence:

First, to the beneficiary or beneficiaries as the member or former member may have designated by a writing received prior to death (1) in the uniformed services if insured under Servicemen's Group Life Insurance, or (2) in the administrative office established under section 766(b) of this title if separated or released from service, or if assigned to the Retired Reserve, and insured under Servicemen's Group Life Insurance, or if insured under Veterans' Group Life Insurance;

Second, if there be no such beneficiary, to the widow or widower of such member or former member;

Third, if none of the above, to the child or children of such member or former member and descendants of deceased children by representation;

Fourth, if none of the above, to the parents of such member or former member or the survivor of them;

Fifth, if none of the above, to the duly appointed executor or administrator of the estate of such member or former member;

Sixth, if none of the above, to other next of kin of such member or former member entitled under the laws of domicile of such member or former member at the time of his death.

(b) If any person otherwise entitled to payment under this section does not make claim therefor within one year after the death of the member or former member, or if payment to such person within that period is prohibited by Federal statute or regulation, payment may be made in the order of precedence as if such person had predeceased the member or former member, and any such payment shall be a bar to recovery by any other person.

(c) If, within two years after the death of the member or former member, no claim for payment has been filed by any person entitled under the order of precedence set forth in this section, and neither the Administrator nor the administrative office established by the insurance company or companies pursuant to section 766(b) of this title has received any notice that any such claim will be made, payment may be made to a claimant as may in the judgment of the Administrator be equitably entitled thereto, and such payment shall be a bar to recovery by any other person. If, within four years after the death of the member or former member, payment has not been made pursuant to this section and no claim for payment by any person entitled under this section is pending, the amount payable shall escheat to the credit of the revolving fund referred to in section 769(d).

(d) The member may elect settlement of insurance under this subchapter either in a lump sum or in thirty-six equal monthly installments. If no such election is made by the member the beneficiary or beneficiaries may elect settlement either in a lump sum or in thirty-six equal monthly installments. If the member has elected settlement in a lump sum, the beneficiary or beneficiaries may elect settlement in thirty-six equal monthly installments.

(e) Until and unless otherwise changed, a beneficiary designation and settlement option filed by a member with his uniformed service under prior provisions of law will be effective with respect to the increased insurance authorized under the Veterans' Insurance Act of 1974 and the insurance shall be settled in the same proportionate amount as the portion designated for such beneficiary or beneficiaries bore to the amount of insurance heretofore in effect.

(f) Notwithstanding the provisions of any other law, payment of matured Servicemens Group Life Insurance or Veterans' Group Life Insurance benefits may be made directly to a minor widow or widower on his or her own behalf, and payment in such case shall be a complete acquittance to the insurer.

(g) Payments of benefits due or to become due under Servicemen's Group Life Insurance or Veterans' Group Life Insurance made to, or on account of, a beneficiary shall be exempt from taxation, shall be exempt from the claims of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary. The preceding sentence shall not apply to (1) collection of amount not deducted from the member's pay, or collected from him by the Secretary concerned under section 769(a) of this title, (2) levy under subchapter D of chapter 64 of the Inter-

nal Revenue Code of 1954 (relating to the seizure of property for collection of taxes), and (3) the taxation of any property purchased in part or wholly out of such payments.

(Added Pub. L. 89-214, § 1(a), Sept. 29, 1965, 79 Stat. 883, and amended Pub. L. 91-291, § 5, June 25, 1970, 84 Stat. 330; Pub. L. 93-289, § 7, May 24, 1974, 88 Stat. 169.)

REFERENCES IN TEXT

Veterans' Insurance Act of 1974, referred to in subsec. (e), is Pub. L. 93-289, May 24, 1974, 88 Stat. 165, which enacted sections 777, 778, and 779 of this title, section 707 of Title 37, Pay and Allowances of the Uniformed Services, amended sections 723, 765, 767, 768, 769, 770, 771, and 774 of this title, and enacted provisions set out as notes under sections 723, 765, 767, and 768 of this title and section 707 of Title 37. For complete classification of this Act to the Code, see Short Title of 1974 Amendment note set out under section 101 of this title and Tables Volume.

Subchapter D of chapter 64 of the Internal Revenue Code of 1954, referred to in subsec. (g), means subchapter D (§ 6331 et seq.) of chapter 64 of Title 26, Internal Revenue Code.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-289, § 7(1), included in clause First writings received in the administrative office established under section 766(b) of this title if separated or released from service, or if assigned to the Retired Reserve, and insured under Servicemen's Group Life Insurance, or if insured under Veterans' Group Life Insurance.

Subsec. (e). Pub. L. 93-289, § 7(2), substituted "the Veterans' Insurance Act of 1974" for "this amendatory Act".

Subsec. (f). Pub. L. 93-289, § 7(3), included payment of benefits under Veterans' Group Life Insurance.

Subsec. (g). Pub. L. 93-289, § 7(3), included payment of benefits under Veterans' Group Life Insurance.

1970—Subsecs. (e) to (g). Pub. L. 91-291 added subsecs. (e) to (g).

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-291 effective June 25, 1970, see section 14(a) of Pub. L. 91-291, set out as an Effective Date of 1970 Amendment note under section 417 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 777 of this title.

§ 771. Basic tables of premiums; readjustment of rates

(a) Each policy or policies purchased under section 766 of this title shall include for the first policy year a schedule of basic premium rates by age which the Administrator shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers, this schedule of basic premium rates by age to be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance under the policy at its date of issue to determine an average basic premium per $1,000 of insurance. Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first policy year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company or companies issuing the policy on a basis determined by the Administrator in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance issued to large employers.

(b) The total premiums for Servicemen's Group Life Insurance shall be the sum of the amounts computed according to the provisions of subsection (a) above and the estimated cost traceable to the extra hazard of active duty in the uniformed services as determined by the Administrator, subject to the provision that such estimated costs traceable to the extra hazard shall be retroactively readjusted annually in accordance with section 769(b).

(c) Each policy so purchased shall include a provision that, in the event the Administrator determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Administrator may approve the determination of a tentative average group life premium, for the first or any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate shall be redetermined by the Administrator during any policy year upon request by the insurance company or companies issuing the policy, if experience indicates that the assumptions made in determining the tentative average premium rate for that policy year were incorrect.

(d) Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Administrator on a basis consistent with the general level of such charges made by life insurance companies under policies of group life insurance issued to large employers. Such maximum charges shall be continued from year to year, except that the Administrator may redetermine such maximum charges for any year either by agreement with the insurance company or companies issuing the policy or upon written notice given by the Administrator to such companies at least one year in advance of the beginning of the year for which such redetermined maximum charges will be effective.

(e) Each such policy shall provide for an accounting to the Administrator not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Administrator, (1) the amounts of premiums actually accrued under the policy from its date of issue to the end of such policy year, (2) the total of all mortality and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of the total of item (1) over the sum of items (2) and (3) shall be held by the insurance company or companies issuing the policy as a special contingency reserve to be used by such insurance company or companies for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of each policy year by the insurance company or companies issuing the policy, which rate shall be approved by the Administrator as being consistent with the rates generally used by such company or com-

panies for similar funds held under other group life insurance policies. If and when the Administrator determines that such special contingency reserve has attained an amount estimated by the Administrator to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess shall be deposited to the credit of the revolving fund established under section 769(d)(1) of this title. If and when such policy is discontinued, and if after all charges have been made, there is any positive balance remaining in such special contingency reserve, such balance shall be deposited to the credit of the revolving fund, subject to the right of the insurance company or companies issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.

(Added Pub. L. 89-214, § 1(a), Sept. 29, 1965, 79 Stat. 884, and amended Pub. L. 93-289, § 8, May 24, 1974, 88 Stat. 169.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93-289, § 8(1), substituted "premiums for Servicemen's Group Life Insurance", for "premiums for the policy or policies".

Subsec. (e). Pub. L. 93-289, § 8(2), substituted "section 769(d)(1) of this title" for "section 766 of this title".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 769, 777 of this title.

§ 772. Benefit certificates

The Administrator shall arrange to have each member insured under a policy purchased under section 766 of this title receive a certificate setting forth the benefits to which the member is entitled thereunder, to whom such benefit shall be payable, to whom claims should be submitted, and summarizing the provisions of the policy principally affecting the member. Such certificate shall be in lieu of the certificate which the insurance company or companies would otherwise be required to issue.

(Added Pub. L. 89-214, § 1(a), Sept. 29, 1965, 79 Stat. 885.)

§ 773. Forfeiture

Any person guilty of mutiny, treason, spying, or desertion, or who, because of conscientious objections, refuses to perform service in the Armed Forces of the United States or refuses to wear the uniform of such force, shall forfeit all rights to Servicemen's Group Life Insurance under this subchapter. No such insurance shall be payable for death inflicted as a lawful punishment for crime or for military or naval offense, except when inflicted by an enemy of the United States.

(Added Pub. L. 89-214, § 1(a), Sept. 29, 1965, 79 Stat. 885.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 779 of this title.

§ 774. Advisory Council on Servicemen's Group Life Insurance

There is hereby established an Advisory Council on Servicemen's Group Life Insurance consisting of the Secretary of the Treasury as Chairman, the Secretary of Defense, the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the Secretary of Transportation, and the Director of the Office of Management and Budget each of whom shall serve without additional compensation. The Council shall meet once a year, or oftener at the call of the Administrator, and shall review the operations under this subchapter and advise the Administrator on matters of policy relating to his activities thereunder.

(Added Pub. L. 89-214, § 1(a), Sept. 29, 1965, 79 Stat. 885, and amended Pub. L. 91-291, § 6, June 25, 1970, 84 Stat. 331; Pub. L. 93-289, § 10(3), May 24, 1974, 88 Stat. 172.)

AMENDMENTS

1974—Pub. L. 93-289 substituted "Office of Management and Budget" for "Bureau of the Budget".

1970—Pub. L. 91-291 added the Secretary of Transportation to the membership of the Advisory Council on Servicemen's Group Life Insurance.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-291 effective June 25, 1970, see section 14(a) of Pub. L. 91-291, set out as an Effective Date of 1970 Amendment note under section 417 of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 775. Jurisdiction of District Courts

The district courts of the United States shall have original jurisdiction of any civil action or claim against the United States founded upon this subchapter.

(Added Pub. L. 89-214, § 1(a), Sept. 29, 1965, 79 Stat. 885.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 211 of this title.

§ 776. Effective date

The insurance provided for in this subchapter and the deductions and contributions for that purpose shall take effect on the date designated by the Administrator and certified by him to each Secretary concerned.

(Added Pub. L. 89-214, § 1(a), Sept. 29, 1965, 79 Stat. 885.)

INTERIM COVERAGE UNTIL EFFECTIVE DATE OF GROUP PLAN; $5,000 DEATH GRATUITY

Section 3 of Pub. L. 89-214, as amended by Pub. L. 89-730, § 6(a) to (d), Nov. 2, 1966, 80 Stat. 1159, provided that:

"(a) In the case of each veteran who died or dies—

"(1) as a direct result of actions of hostile forces;

"(2) as a direct result of an accident involving a military or naval aircraft or an aircraft under charter to the Department of Defense, Army, Navy, or Air Force;

"(3) as a direct result of the extra hazard of military or naval service, as such hazard may be determined by the Administrator; or

"(4) while performing service for which incentive pay for hazardous duty or special pay is authorized by section 301, 304, or 310 of title 37, United States Code;

while in the active military, naval, or air service during the period from January 1, 1957, to the date immediately preceding the date on which the Servicemen's Group Life Insurance program is placed in effect pursuant to section 776 of title 38, United States Code, both dates inclusive, the Administrator of Veterans' Affairs shall pay a death gratuity to the widow or widower, child or children, or parent or parents of such veteran, as provided in subsection (b), in an amount not exceeding $5,000, determined as provided in subsection (c), but only if application is made for such death gratuity within one year after the date of enactment of this Act [Sept. 29, 1965].

"(b) The death gratuity authorized by this section shall be paid to the following classes of persons and in the order named—

"(1) to the widow or widower of the veteran, if living;

"(2) if no widow or widower, to the child or children of the veteran, if living, in equal shares;

"(3) if no widow, widower, or child, to the parent or parents of the veteran who last bore that relationship, if living, in equal shares.

"(c)(1) The death gratuity authorized by this section shall be $5,000 reduced by the aggregate amount of United States Government Life Insurance and National Service Life Insurance paid or payable on account of the death of such veteran.

"(2) The right of any person to payment of a death gratuity under this section shall be conditioned upon his being alive to receive such payment. No person shall have a vested right to any such payment and any payment not made during the person's lifetime shall be paid to the person or persons within the permitted class next entitled to priority, as provided in subsection (b).

"(d) Any terms used in this section which are defined in section 101 or 102(b) of title 38, United States Code, shall, for the purposes of this section, have the meanings given to them by such section 101 or 102(b), except that (1) the term 'veteran', as used in this section, includes a person who dies while in the active military, naval, or air service and (2) the term 'child' shall not be limited with respect to age or marital status.

"(e) Appropriations made to the Veterans' Administration for 'Compensation and Pensions' shall be available for the payment of death gratuities under this section."

WAIVER OF FUTURE BENEFITS OF INTERIM COVERAGE

Pub. L. 89-730, § 6(e), Nov. 2, 1966, 80 Stat. 1159, provided that: "Any waiver of future benefits executed by any person under section 3(a) of the Act of September 29, 1965 (79 Stat. 886) [set out as a note above], as in effect prior to the date of the enactment of this Act [Nov. 2, 1966], shall be of no effect."

RESTITUTION OF AMOUNTS DEDUCTED FROM $5,000 DEATH GRATUITY

Pub. L. 89-730, § 6(f), Nov. 2, 1966, 80 Stat. 1159, provided that: "In any case in which the death gratuity paid to any person under section 3 of the Act of September 29, 1965 [set out as a note above], was reduced pursuant to clause (B) of subsection (c)(1) of such section, as in effect prior to the date of enactment of this Act [Nov. 2, 1966], the Administrator of Veterans' Affairs shall pay to such person an amount equal to the amount by which such death gratuity was reduced."

TIME FOR FILING APPLICATION FOR DEATH GRATUITY

Pub. L. 89-730, § 6(g), Nov. 2, 1966, 80 Stat. 1159, provided that: "Notwithstanding the time limitation prescribed in section 3(a) of the Act of September 29, 1965 [setout as a note above], any application for death gratuity filed under such section shall be valid if filed within one year after the date of enactment of this Act [Nov. 2, 1966]."

§ 777. Veterans' Group Life Insurance

(a) Veterans' Group Life Insurance shall be issued in the amount of $5,000, $10,000, $15,000, or $20,000 only. No person may carry a combined amount of Servicemen's Group Life Insurance and Veterans' Group Life Insurance in excess of $20,000 at any one time. Any person insured under Veterans' Group Life Insurance who again becomes insured under Servicemen's Group Life Insurance may within sixty days after becoming so insured convert any or all of his Veterans' Group Life Insurance to an individual policy of insurance under subsection (e) of this section. However, if such a person dies within the sixty-day period and before converting his Veterans' Group Life Insurance, Veterans' Group Life Insurance will be payable only if he is insured for less than $20,000 under Servicemen's Group Life Insurance, and then only in an amount which when added to the amount of Servicemen's Group Life Insurance payable shall not exceed $20,000.

(b) Veterans' Group Life Insurance shall (1) provide protection against death; (2) be issued on a nonrenewable five-year term basis; (3) have no cash, loan, paid-up, or extended values; (4) except as otherwise provided, lapse for nonpayment of premiums; and (5) contain such other terms and conditions as the Administrator determines to be reasonable and practicable which are not specifically provided for in this section, including any provisions of this subchapter not specifically made inapplicable by the provisions of this section.

(c) The premiums for Veterans' Group Life Insurance shall be established under the criteria set forth in sections 771(a) and (c) of this title, except that the Administrator may provide for average premiums for such various age groupings as he may decide to be necessary according to sound actuarial principles, and shall include an amount necessary to cover the administrative cost of such insurance to the company or companies issuing such insurance. Such premiums shall be payable by the insureds thereunder as provided by the Administrator directly to the administrative office established for such insurance under section 766(b) of this title. In any case in which a member or former member who was mentally incompetent on the date he first became insured under Veterans' Group Life Insurance dies within one year of such date, such insurance shall be deemed not to have lapsed for nonpayment of premiums and to have been in force on the date of death. Where insurance is in force under the preceding sentence, any unpaid premiums may be deducted from the proceeds of the insurance. Any person who claims eligibility for Veterans' Group Life Insurance based on disability incurred during a period of duty shall be required to submit evidence of qualifying health conditions and, if required, to submit to physical examinations at their own expense.

(d) Any amount of Veterans' Group Life Insurance in force on any person on the date of his death shall be paid, upon the establishment

of a valid claim therefor, pursuant to the provisions of section 770 of this title. However, any designation of beneficiary or beneficiaries for Servicemen's Group Life Insurance filed with a uniformed service until changed, shall be considered a designation of beneficiary or beneficiaries for Veterans' Group Life Insurance, but not for more than sixty days after the effective date of the insured's Veterans' Group Insurance, unless at the end of such sixty-day period, the insured is incompetent in which event such designation may continue in force until the disability is removed but not for more than five years after the effective date of the insured's Veterans' Group Life Insurance. Except as indicated above in incompetent cases, after such sixty-day period, any designation of beneficiary or beneficiaries for Veterans' Group Life Insurance to be effective must be by a writing signed by the insured and received by the administrative office established under section 766(b) of this title.

(e) An insured under Veterans' Group Life Insurance shall have the right to convert such insurance to an individual policy of life insurance upon written application for conversion made to the participating company he selects and payment of the required premiums. The individual policy will be issued without medical examination on a plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof or for the payment of an additional amount as premiums in the event the insured performs active duty, active duty for training, or inactive duty training. The individual policy will be effective the day after the insured's Veterans' Group Life Insurance terminates by expiration of the five-year term period, except in a case where the insured is eligible to convert at an earlier date by reason of again having become insured under Servicemen's Group Life Insurance, in which event the effective date of the individual policy may not be later than the sixty-first day after he again became so insured. Upon request to the administrative office established under section 766(b) of this title, an insured under Veterans' Group Life Insurance shall be furnished a list of life insurance companies participating in the program established under this subchapter. In addition to the life insurance companies participating in the program established under this subchapter, the list furnished to an insured under this section shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions established by the Administrator and agree to sell insurance to former members in accordance with the provisions of this section.

(f) The provisions of sections 771(d) and (e) of this title shall be applicable to Veterans' Group Life Insurance. However, a separate accounting shall be required for each program of insurance authorized under this subchapter. In such accounting, the Administrator is authorized to allocate claims and other costs among such programs of insurance according to accepted actuarial principles.

(g) Any person whose Servicemen's Group Life Insurance was continued in force after termination of duty or discharge from service under the law as in effect prior to the date on which the Veterans' Group Life Insurance program (provided for under section 777 of this title) became effective, and whose coverage under Servicemens' Group Life Insurance terminated less than four years prior to such date, shall be eligible within one year from the effective date of the Veterans' Group Life Insurance program to apply for and be granted Veterans' Group Life Insurance in an amount equal to the amount of his Servicemen's Group Life Insurance which was not converted to an individual policy under prior law. Veterans' Group Life Insurance issued under this subsection shall be issued for a term period equal to five years, less the time elapsing between the termination of the applicant's Servicemen's Group Life Insurance and the effective date on which the Veterans' Group Life Insurance program became effective. Veterans' Group Life Insurance under this subsection shall only be issued upon application to the administrative office established under section 766(b) of this title, payment of the required premium, and proof of good health satisfactory to that office, which proof shall be submitted at the applicant's own expense. Any person who cannot meet the good health requirements for insurance under this subsection solely because of a service-connected disability shall have such disability waived. For each month for which any eligible veteran, whose service-connected disabilities are waived, is insured under this subsection there shall be contributed to the insurer or insurers issuing the policy or policies from the appropriation "Compensation and Pensions, Veterans' Administration" an amount necessary to cover the cost of the insurance in excess of the premiums established for eligible veterans, including the cost of the excess mortality attributable to such veteran's service-connected disabilities. The Administrator may establish, as he may determine to be necessary according to sound actuarial principles, a separate premium, age groupings for premium purposes, accounting, and reserves, for persons granted insurance under this subsection different from those established for other persons granted insurance under this section. Appropriations to carry out the purpose of this section are hereby authorized.

(Added Pub. L. 93-289, § 9(a), May 24, 1974, 88 Stat. 169.)

EFFECTIVE DATE

Section effective on the first day of the third calendar month following May 1974, see section 12(4) of Pub. L. 93-289, set out as an Effective Date of 1974 Amendment note under section 768 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 768 of this title.

§ 778. Reinstatement

Reinstatement of insurance coverage granted under this subchapter but lapsed for nonpayment of premiums shall be under terms and conditions prescribed by the Administrator.

(Added Pub. L. 93-289, § 9(a), May 24, 1974, 88 Stat. 172.)

EFFECTIVE DATE

Section effective on the first day of the third calendar month following May 1974, see section 12(4) of Pub. L. 93-289, set out as an Effective Date of 1974 Amendment note under section 768 of this title.

§ 779. Incontestability

Subject to the provision of section 773 of this title, insurance coverage granted under this subchapter shall be incontestable from the date of issue, reinstatement, or conversion except for fraud or nonpayment of premium.

(Added Pub. L. 93-289, § 9(a), May 24, 1974, 88 Stat. 172.)

EFFECTIVE DATE

Section effective on the first day of the third calendar month following May 1974, see section 12(4) of Pub. L. 93-289, set out as an Effective Date of 1974 Amendment note under section 768 of this title.

SUBCHAPTER IV—GENERAL

AMENDMENTS

1965—Pub. L. 89-214, § 1(a), Sept. 29, 1965, 79 Stat. 880, redesignated "Subchapter III—General" as "Subchapter IV—General".

§ 781. Replacement of surrendered and expired insurance

(a) Any person who surrendered a policy of National Service Life Insurance or United States Government life insurance on a permanent plan for its cash value while in the active service after April 24, 1951, and before January 1, 1957, who was entitled on December 31, 1958, to reinstate or replace such insurance under section 623 of the National Service Life Insurance Act of 1940, may, upon application in writing made while on continuous active duty which began before January 1, 1959, or within one hundred and twenty days after separation therefrom, be granted, without medical examination, permanent plan insurance on the same plan not in excess of the amount surrendered for cash, or may reinstate such surrendered insurance upon payment of the required reserve and the premium for the current month. Waiver of premiums and total disability income benefits otherwise authorized under this chapter shall not be denied in any case of issue or reinstatement of insurance on a permanent plan under this section or the prior corresponding provision of law in which it is shown to the satisfaction of the Administrator that total disability of the applicant began before the date of application. The cost of the premiums waived and total disability income benefits paid by virtue of the preceding sentence and the excess mortality cost in any case where the insurance matures by death from such total disability shall be borne by the United States and the Administrator shall transfer from time to time from the National Service Life Insurance appropriation to the National Service Life Insurance Fund and from the military and naval insurance appropriation to the United States Government Life Insurance Fund such sums as may be necessary to reimburse the funds for such costs.

(b) Any person who had United States Government life insurance or National Service Life Insurance on the five-year level premium term plan, the term of which expired while he was in the active service after April 25, 1951, or within one hundred and twenty days after separation from such active service, and in either case before January 1, 1957, who was entitled on December 31, 1958, to replace such insurance under section 623 of the National Service Life Insurance Act of 1940, shall, upon application made while on continuous active duty which began before January 1, 1959, or within one hundred and twenty days after separation therefrom, payment of premiums and evidence of good health satisfactory to the Administrator, be granted an equivalent amount of insurance on the five-year level premium term plan at the premium rate for his then attained age.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1164.)

REFERENCES IN TEXT

Section 623 of the National Service Life Insurance Act of 1940, referred to in subsecs. (a) and (b), is section 623 of act Oct. 8, 1940, ch. 757, title VI, pt. I, as added Aug. 1, 1956, ch. 837, title V, § 501(a)(4), 70 Stat. 880, which enacted section 824 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed and the provisions thereof reenacted as this section by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1105.

§ 782. Administrative cost

The United States shall bear the cost of administration in connection with this chapter, including expenses for medical examinations, inspections when necessary, printing and binding, and for such other expenditures as are necessary in the discretion of the Administrator.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1165.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 769 of this title.

§ 783. Settlements for minors or incompetents

When an optional mode of settlement of National Service Life Insurance or United States Government life insurance heretofore or hereafter matured is available to a beneficiary who is a minor or incompetent, such option may be exercised by his fiduciary, person qualified under section 14 of title 25, or person recognized by the Administrator as having custody of the person or the estate of such beneficiary, and the obligation of the United States under the insurance contract shall be fully satisfied by payment of benefits in accordance with the mode of settlement so selected.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1165.)

§ 784. Suits on insurance

(a) In the event of disagreement as to claim, including claim for refund of premiums, under contract of National Service Life Insurance, United States Government life insurance, or yearly renewable term insurance between the Veterans' Administration and any person or persons claiming thereunder an action on the claim may be brought against the United States either in the United States District Court for the District of Columbia or in the district court of the United States in and for the district in which such person or any one of them resides, and jurisdiction is conferred upon such courts

to hear and determine all such controversies. All persons having or claiming to have an interest in such insurance may be made parties to such suit, and such as are not inhabitants of or found within the district in which suit is brought may be brought in by order of the court to be served personally or by publication or in such other reasonable manner as the court may direct. In all cases where the Veterans' Administration acknowledges the indebtedness of the United States upon any such contract of insurance and there is a dispute as to the person or persons entitled to payment, a suit in the nature of a bill of interpleader may be brought at the request of the Veterans' Administration in the name of the United States against all persons having or claiming to have any interest in such insurance in the United States District Court for the District of Columbia or in the district court in and for the district in which any such claimant resides; however, no less than thirty days before instituting such suit the Veterans' Administration shall mail a notice of such intention to each of the persons to be made parties to the suit. The courts of appeals for the several circuits, including the District of Columbia, shall respectively exercise appellate jurisdiction and, except as provided in section 1254 of title 28, the decrees of such courts of appeals shall be final.

(b) No suit on yearly renewable term insurance, United States Government life insurance, or National Service Life Insurance shall be allowed under this section unless the same shall have been brought within six years after the right accrued for which the claim is made. For the purposes of this section it shall be deemed that the right accrued on the happening of the contingency on which the claim is founded. The limitation of six years is suspended for the period elapsing between the filing in the Veterans' Administration of the claim sued upon and the denial of said claim: *Provided,* That in any case in which a claim is timely filed the claimant shall have not less than ninety days from the date of mailing of notice of denial within which to file suit. After June 28, 1936, notice of denial of the claim under a contract of insurance shall be by registered mail or by certified mail directed to the claimant's last address of record. Infants, insane persons, or persons under other legal disability, or persons rated as incompetent or insane by the Veterans' Administration shall have three years in which to bring suit after the removal of their disabilities. If suit is seasonably begun and fails for defect in process, or for other reasons not affecting the merits, a new action, if one lies, may be brought within a year though the period of limitation has elapsed. No State or other statute of limitations shall be applicable to suits filed under this section.

(c) In any suit, action, or proceeding brought under the provisions of this section subpenas for witnesses who are required to attend a court of the United States in any district may run into any other district: *Provided,* That no writ of subpena shall issue for witnesses living out of the district in which the court is held at a greater distance than one hundred miles from the place of holding the same without the permission of the court being first had upon proper application and cause shown. The word "district" and the words "district court" as used herein shall be construed to include the District of Columbia and the United States District Court for the District of Columbia.

(d) Attorneys of the Veterans' Administration, when assigned to assist in the trial of cases, and employees of the Veterans' Administration when ordered in writing by the Administrator to appear as witnesses, shall be paid the regular travel and subsistence allowance paid to other employees when on official travel status.

(e) Part-time and fee-basis employees of the Veterans' Administration, in addition to their regular travel and subsistence allowance, when ordered in writing by the Administrator to appear as witnesses in suits under this section, may be allowed, within the discretion and under written orders of the Administrator, a fee in an amount not to exceed $50 per day.

(f) Employees of the Veterans' Administration who are subpenaed to attend the trial of any suit, under the provisions of this section, as witnesses for a party to such suit shall be granted court leave or authorized absence, as applicable, for the period they are required to be away from the Veterans' Administration in answer to such subpenas.

(g) Whenever a judgment or decree shall be rendered in an action brought under the provisions of this section, the court, as a part of its judgment or decree, shall determine and allow reasonable fees for the attorneys of the successful party or parties and apportion same if proper, said fees not to exceed 10 per centum of the amount recovered and to be paid by the Veterans' Administration out of the payments to be made under the judgment or decree at a rate not exceeding one-tenth of each of such payments until paid; except that, in a suit brought by or on behalf of an insured during his lifetime for waiver of premiums on account of total disability, the court, as part of its judgment or decree, shall determine and allow a reasonable fee to be paid by the insured to his attorney.

(h) The term "claim" as used in this section means any writing which uses words showing an intention to claim insurance benefits; and the term "disagreement" means a denial of the claim, after consideration on its merits, by the Administrator or any employee or organizational unit of the Veterans' Administration heretofore or hereafter designated therefor by the Administrator.

(i) The Attorney General of the United States is authorized to agree to a judgment to be rendered by the chief judge of the United States court having jurisdiction of the case, pursuant to compromise approved by the Attorney General upon the recommendation of the United States attorney charged with the defense, upon such terms and for sums within the amount claimed to be payable, in any suit brought under the provisions of this section, on a contract of yearly renewable term insurance, and the Administrator shall make payments in accordance with any such judgment. The Comptroller General of the United States shall allow credit in the accounts of disbursing officers for all payments of insurance made in ac-

cordance with any such judgment. All such judgments shall constitute final settlement of the claim and no appeal therefrom shall be authorized.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1165; Pub. L. 86-507, § 1(32), June 11, 1960, 74 Stat. 202.)

AMENDMENTS

1960—Subsec. (b). Pub. L. 86-507 inserted "or by certified mail" following "registered mail".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 108, 211, 747, 785, 3405 of this title.

§ 785. Decisions by the Administrator

Except in the event of suit as provided in section 784 of this title, or other appropriate court proceedings, all decisions rendered by the Administrator under the provisions of this chapter shall be final and conclusive on all questions of law or fact, and no other official of the United States shall have jurisdiction to review any such decisions.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1167.)

§ 786. Deposits in and disbursements from trust funds

All cash balances in the United States Government Life Insurance Fund and the National Service Life Insurance Fund on January 1, 1959, together with all moneys thereafter accruing to such funds, including premiums, appropriated moneys, the proceeds of any sales of investments which may be necessary to meet current expenditures, and interest on investments, shall be available for disbursement for meeting all expenditures and making investments authorized to be made from such funds.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1167.)

§ 787. Penalties

(a) Any person who shall knowingly make or cause to be made, or conspire, combine, aid, or assist in, agree to, arrange for, or in anywise procure the making or presentation of a false or fraudulent affidavit, declaration, certificate, statement, voucher, or paper, or writing purporting to be such, concerning any application for insurance or reinstatement thereof, waiver of premiums or claim for benefits under National Service Life Insurance, United States Government life insurance, or yearly renewable term insurance for himself or any other person, shall be fined not more than $1,000, or be imprisoned for not more than one year, or both.

(b) Whoever in any claim for National Service Life Insurance, United States Government life insurance, or yearly renewable term insurance makes any sworn statement of a material fact knowing it to be false, shall be guilty of perjury and shall be fined not more than $5,000, or be imprisoned for not more than two years, or both.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1167.)

§ 788. Savings provision

Nothing in this title or any amendment or repeal made by the Act enacting this title shall affect any right, remedy, liability, authorization or requirement pertaining to Government insurance, the respective insurance funds, or the insurance appropriations, authorized or prescribed under the provisions of the War Risk Insurance Act, the World War Veterans' Act, 1924, the National Service Life Insurance Act of 1940, or any related Act, which was in effect on December 31, 1958.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1167.)

REFERENCES IN TEXT

The War Risk Insurance Act, referred to in text, is act Sept. 2, 1914, ch. 293, 38 Stat. 711, as amended. Sections 600 and 601 of the World War Veterans' Act, 1924 (act June 7, 1924, ch. 320, 43 Stat. 607, 629) repealed the War Risk Insurance Act subject to certain limitations provided in section 602 thereof.

The World War Veterans' Act, 1924, referred to in text, is act June 7, 1924, ch. 320, 43 Stat. 607, as amended, which was classified generally to chapter 10 (§§ 421 to 576) of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed by Pub. L. 85-857, § 14(51), Sept. 2, 1958, 72 Stat. 1271. For distribution of sections 421 to 576 of former Title 38 in this title, see Table preceding section 101 of this title.

The National Service Life Insurance Act of 1940, referred to in text, is act Oct. 8, 1940, ch. 757, title VI, part I, 54 Stat. 1008, as amended, which was classified generally to chapter 13 (§ 801 et seq.) of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed and the provisions thereof reenacted as this subchapter by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1105.

CHAPTER 21—SPECIALLY ADAPTED HOUSING FOR DISABLED VETERANS

Sec.
801. Veterans eligible for assistance.
802. Limitations on assistance furnished.
803. Furnishing of plans and specifications.
804. Benefits additional to benefits under other laws.
805. Nonliability of United States.
806. Mortgage Protection Life Insurance.

AMENDMENTS

1971—Pub. L. 92-95, § 2, Aug. 11, 1971, 85 Stat. 322, added item 806.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 106 of this title.

§ 801. Veterans eligible for assistance

The Administrator is authorized, under such regulations as he may prescribe, to assist any veteran, who is entitled to compensation under chapter 11 of this title, based on service after April 20, 1898, for permanent and total service-connected disability—

(1) due to the loss, or loss of use, of both lower extremities, such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair, or

(2) which includes (A) blindness in both eyes, having only light perception, plus (B) loss or loss of use of one lower extremity, or

(3) due to the loss or loss of use of one lower extremity together with residuals of organic disease or injury which so affect the functions of balance or propulsion as to preclude locomotion without resort to a wheelchair,

in acquiring a suitable housing unit with special fixtures or movable facilities made necessary by the nature of the veteran's disability, and nec-

essary land therefor. The regulations of the Administrator shall include, but not be limited to, provisions requiring findings that (1) it is medically feasible for such veteran to reside in the proposed housing unit and in the proposed locality; (2) the proposed housing unit bears a proper relation to the veteran's present and anticipated income and expenses; and (3) the nature and condition of the proposed housing unit are such as to be suitable to the veteran's needs for dwelling purposes.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1168; Pub. L. 86-239, Sept. 8, 1959, 73 Stat. 472; Pub. L. 88-401, Aug. 4, 1964, 78 Stat. 380; Pub. L. 91-22, § 1, June 6, 1969, 83 Stat. 32.)

AMENDMENTS

1969—Pub. L. 91-22 added cl. (3), which authorized the Administrator to provide housing assistance to veterans whose permanent and total disability consists of the loss or loss of use of one lower extremity when such loss precludes locomotion without a wheelchair.

1964—Pub. L. 88-401 eliminated provisions from clause (2)(B) which required such permanent and total disability to be such as to preclude locomotion without the aid of a wheelchair.

1959—Pub. L. 86-239 designated existing provisions of the first sentence as clause (1), deleted therefrom "by reason of amputation, ankylosis, progressive muscular dystrophies, or paralysis" following "loss of use" and added clause (2).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 802 of this title.

§ 802. Limitations on assistance furnished

The assistance authorized by section 801 of this title shall be limited in the case of any veteran to one housing unit, and necessary land therefor, and shall be afforded under one of the following plans, at the option of the veteran but shall not exceed $25,000 in any one case—

(1) where the veteran elects to construct a housing unit on land to be acquired by him, the Administrator shall pay not to exceed 50 per centum of the total cost to the veteran of (A) the housing unit and (B) the necessary land upon which it is to be situated;

(2) where the veteran elects to construct a housing unit on land acquired by him prior to application for assistance under this chapter, the Administrator shall pay not to exceed the smaller of the following sums: (A) 50 per centum of the total cost to the veteran of the housing unit and the land necessary for such housing unit, or (B) 50 per centum of the cost to the veteran of the housing unit plus the full amount of the unpaid balance, if any, of the cost to the veteran of the land necessary for such housing unit;

(3) where the veteran elects to remodel a dwelling which is not adapted to the requirements of his disability, acquired by him prior to application for assistance under this chapter, the Administrator shall pay not to exceed (A) the cost to the veteran of such remodeling; or (B) 50 per centum of the cost to the veteran of such remodeling; plus the smaller of the following sums: (i) 50 per centum of the cost to the veteran of such dwelling and the necessary land upon which it is situated, or (ii) the full amount of the unpaid balance, if any, of the cost to the veteran of such dwelling and the necessary land upon which it is situated; and

(4) where the veteran has acquired a suitable housing unit, the Administrator shall pay not to exceed the smaller of the following sums: (A) 50 per centum of the cost to the veteran of such housing unit and the necessary land upon which it is situated, or (B) the full amount of the unpaid balance, if any, of the cost to the veteran of such housing unit and the necessary land upon which it is situated.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1168; Pub. L. 91-22, § 2, June 6, 1969, 83 Stat. 32; Pub. L. 91-506, § 6, Oct. 23, 1970, 84 Stat. 1113; Pub. L. 92-341, July 10, 1972, 86 Stat. 432; Pub. L. 93-569, § 9, Dec. 31, 1974, 88 Stat. 1867.)

AMENDMENTS

1974—Pub. L. 93-569 substituted "$25,000" for "$17,500".

1972—Pub. L. 92-341 substituted "$17,500" for "$12,500".

1970—Par. (3). Pub. L. 91-506 added provision authorizing Administrator in the case of assistance to disabled veterans for specially adapted housing, where the veteran elects to remodel a dwelling not adapted to his disability, to pay the cost of remodeling as an alternative to the present provisions still set out in this par. which authorize the Administrator to pay the total of 50 percent of the remodeling cost plus 50 percent of the dwelling's cost or the full amount of the unpaid balance of the cost of such dwelling, whichever sum is smaller.

1969—Pub. L. 91-22 substituted "$12,500" for "$10,000".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-569 effective Dec. 31, 1974, see section 10 of Pub. L. 93-569, set out as an Effective Date of 1974 Amendment note under section 1802 of this title.

§ 803. Furnishing of plans and specifications

The Administrator is authorized to furnish to veterans eligible for assistance under this chapter, without cost to the veterans, model plans and specifications of suitable housing units.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1168.)

§ 804. Benefits additional to benefits under other laws

Any veteran who accepts the benefits of this chapter shall not by reason thereof be denied the benefits of chapter 37 of this title; however, the assistance authorized by this chapter shall not be available to any veteran more than once.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1169.)

§ 805. Nonliability of United States

The Government of the United States shall have no liability in connection with any housing unit, or necessary land therefor, acquired under the provisions of this chapter.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1169.)

§ 806. Mortgage Protection Life Insurance

(a) The Administrator is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of mortgage protection life insurance

on a group basis to provide the benefits specified in this section.

(b) Any policy of insurance purchased by the Administrator under this section shall be placed in effect on a date determined by the Administrator and shall automatically insure any eligible veteran who is or has been granted assistance in securing a suitable housing unit under this chapter against the death of the veteran, unless the veteran elects in writing not to be insured under this section or fails to timely respond to a request from the Administrator for information on which his premium can be based.

(c) The initial amount of insurance provided hereunder shall not exceed the lesser of the following amounts: (1) $40,000, (2) the amount of the loan outstanding on such housing unit on the date insurance under this section is placed in effect, or (3) in the case of a veteran granted assistance in securing a housing unit on or after such date the amount of the original loan. The amount of such insurance shall be reduced according to the amortization schedule of the loan and at no time shall exceed the amount of the outstanding loan with interest. If there is no outstanding loan on the housing unit no insurance shall be payable hereunder. If any eligible veteran elects not to be insured under this section, he may thereafter be insured hereunder only upon application, payment of required premiums, and compliance with such health requirements and other terms and conditions as may be prescribed by the Administrator.

(d) The premium rates charged a veteran for insurance under this section shall be paid at such times and in such manner as the Administrator shall prescribe and shall be based on such mortality data as the Administrator deems appropriate to cover only the mortality cost of insuring standard lives. The Administrator is authorized and directed to deduct the premiums charged veterans for life insurance under this section from any compensation or other cash benefits payable to them by the Veterans' Administration and to pay such premiums to the insurer or insurers for such insurance. Any veterans insured hereunder not eligible for cash benefits from the Veterans' Administration may pay the amount of his premiums directly to the insurer or insurers for insurance hereunder.

(e) The United States shall bear all of the cost of the insurance provided under this section except the amount of the premium rates established for eligible veterans under subsection (d) as the mortality cost of insuring standard lives. For each month for which any eligible veteran is insured under a policy purchased under this section there shall be contributed to the insurer or insurers issuing the policy or policies from the appropriation "Compensation and Pensions, Veterans' Administration" an amount necessary to cover the cost of the insurance in excess of the premiums established for eligible veterans, including the cost of administration and the cost of the excess mortality attributable to the veterans' disabilities. Appropriations to carry out the purposes of this section are hereby authorized.

(f) Any amount of insurance in force under this section on the date of death of an eligible veteran insured hereunder shall be paid only to the holder of the mortgage loan, the payment of which such insurance was granted, for credit on the loan indebtedness and the liability of the insurer under such insurance shall be satisfied when such payment is made. If the Administrator is the holder of the mortgage loan, the insurance proceeds shall be credited to the loan indebtedness and, as appropriate, deposited in either the direct loan or loan guaranty revolving fund established by section 1823 or 1824 of this title, respectively.

(g) Each policy purchased under this section shall also provide, in terms approved by the Administrator, for the following:

(1) reinsurance, to the extent and in a manner to be determined by the Administrator to be in the best interest of the veterans or the Government, with other insurers which meet qualifying criteria established by the Administrator as may elect to participate in such reinsurance.

(2) that at any time the Administrator determines such action to be in the best interest of veterans or the Government he may (A) discontinue the entire policy, or (B) at his option, exclude from coverage under such policy loans made after a date fixed by him for such purpose; however, any insurance previously issued to a veteran under such policy may not be canceled by the insurer solely because of termination of the policy by the Administrator with respect to new loans. If the policy is wholly discontinued, the Administrator shall have the right to require the transfer, to the extent and in a manner to be determined by him, to any new company or companies with which he has negotiated a new policy or policies, the amounts, as determined by the existing insurer or insurers with the concurrence of the Administrator of any policy or contingency reserves with respect to insurance previously in force;

(3) issuance to each veteran insured under this section of a uniform type of certificate setting forth the benefits to which he is entitled under the insurance;

(4) any other provisions which are reasonably necessary or appropriate to carry out the provisions of this section; and

(5) an accounting to the Administrator not later than ninety days after the end of each policy year which shall set forth, in a form approved by the Administrator, (A) the amount of premiums paid by veterans and contributions made by the Veterans' Administration accrued under the contract or agreement from its date of issue to the end of such contract year; (B) the total of all mortality and other claim charges incurred for that period; and (C) the amount of the insurer's expense and risk charges, if any, for that period. Any excess of the total of item (A) over the sum of items (B) and (C) shall be held by the insurer as a contingency reserve to be used by such insurer for charges under the contract or agreement only. The contingency reserve shall bear interest at a rate to be determined in advance of each contract year by the insurer, which rate shall be approved by the Administrator if consistent with the rates generally used by the insurer

for similar funds held under other plans of group life insurance. If and when the Administrator determines that such contingency reserve has attained an amount estimated by him to make satisfactory provision for adverse fluctuations in future charges under the contract, the Administrator shall require the insurer to adjust the premium rates and contributions so as to prevent any further substantial accretions to the contingency reserve. If and when the contract or agreement is discontinued and if after all charges have been made there is any positive balance remaining in the contingency reserve, such balance shall be payable to the Administrator and by him deposited to the appropriation "Compensation and Pensions, Veterans' Administration," subject to the right of the insurer to make such payment in equal monthly installments over a period of not more than two years.

(h) With respect to insurance contracted for under this section, the Administrator is authorized to adopt such regulations relating to eligibility of the veteran for insurance, maximum amount of insurance, maximum duration of insurance, and other pertinent factors not specifically provided for in this section, which in his judgment are in the best interest of veterans or the Government. Insurance contracted for under this section shall take effect as to eligible veterans heretofore granted assistance under this chapter on a date determined by the Administrator, and as to eligible veterans hereafter granted assistance under this chapter at the time of the closing of his loan. The amount of the insurance at any time shall be the amount necessary to pay the mortgage indebtedness in full, except as otherwise limited by the policy.

(i) Insurance contracted for under this section shall terminate upon whichever of the following events first occurs:

(1) satisfaction of the veterans' indebtedness under the loan upon which the insurance is based;

(2) the veteran's seventieth birthday;

(3) termination of the veteran's ownership of the property securing the loan;

(4) discontinuance of payment of premiums by the veteran; or

(5) discontinuance of the entire contract or agreement.

(j) Termination of the mortgage protection life insurance will in no way affect the guaranty or insurance of the loan by the Administrator.

(Added Pub. L. 92-95, § 1, Aug. 11, 1971, 85 Stat. 320, and amended Pub. L. 94-433, title III, § 302, Sept. 30, 1976, 90 Stat. 1377.)

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-433 substituted $40,000 for $30,000.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

CHAPTER 23—BURIAL BENEFITS

Sec.
901. Flags.
902. Funeral expenses.
903. Death in Veterans' Administration facility; plot allowance.
904. Claims for reimbursement.
905. Persons eligible under prior law.
906. Headstones and markers.
907. Death from service-connected disability.
908. Transportation of deceased veteran to a national cemetery.

AMENDMENTS

1976—Pub. L. 94-433, title III, § 304(b), Sept. 30, 1976, 90 Stat. 1377, added item 908.

1973—Pub. L. 93-43, § 5(b)(1), (2), June 18, 1973, 87 Stat. 81, provided for "plot allowance" in item 903, and added items 906 and 907.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 107, 415, 503 of this title.

§ 901. Flags

(a) The Administrator shall furnish a flag to drape the casket of each deceased veteran who—

(1) was a veteran of any war, or of service after January 31, 1955;

(2) had served at least one enlistment; or

(3) had been discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty.

(b) After the burial of the veteran the flag so furnished shall be given to his next of kin. If no claim is made for the flag by the next of kin, it may be given, upon request, to a close friend or associate of the deceased veteran. If a flag is given to a close friend or associate of the deceased veteran, no flag shall be given to any other person on account of the death of such veteran.

(c) For the purpose of this section, the term "Mexican border period" as defined in paragraph (30) of section 101 of this title includes the period beginning on January 1, 1911, and ending on May 8, 1916.

(d) In the case of any person who died while in the active military, naval, or air service after May 27, 1941 the Administrator shall furnish a flag to the next of kin, or to such other person as the Administrator deems most appropriate, if such next of kind or other person is not otherwise entitled to receive a flag under this section, or under section 1482(a) of title 10, United States Code.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1169; Pub. L. 87-240, Sept. 14, 1961, 75 Stat. 512; Pub. L. 89-358, § 9, Mar. 3, 1966, 80 Stat. 28; Pub. L. 90-77, title IV, § 402, Aug. 31, 1967, 81 Stat. 190; Pub. L. 91-588, § 9(g), Dec. 24, 1970, 84 Stat. 1585.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-588, § 9(g)(1), struck out reference to the Mexican border service.

Subsec. (c). Pub. L. 91-588, § 9(g)(2), substituted "For the purpose of this section, the term 'Mexican border period' as defined in paragraph (30) of section 101 of this title includes the period beginning on January 1, 1911, and ending on May 8, 1916" for "For the purpose

of this section, the term 'Mexican border service' means active military, naval, or air service during the period beginning on January 1, 1911, and ending on April 5, 1917, in Mexico, on the borders thereof, or in the waters adjacent thereto".

1967—Subsec. (d). Pub. L. 90-77 added subsec. (d).

1966—Subsec. (a)(1). Pub. L. 89-358 required a flag to be furnished to drape the casket of a deceased veteran who served after Jan. 31, 1955.

1961—Subsec. (a). Pub. L. 87-240, § 1(1), inserted "or of Mexican border service" after "veteran of any war".

Subsec. (c). Pub. L. 87-240, § 1(2), added subsec. (c).

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-588 effective Jan. 1, 1971, see section 10(a) of Pub. L. 91-588, set out as an Effective Date of 1970 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

§ 902. Funeral expenses

(a) Where a veteran dies—

(1) of a service-connected disability; or

(2) who was (A) a veteran of any war; (B) discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty; or (C) in receipt of (or but for the receipt of retirement pay would have been entitled to) disability compensation;

the Administrator, in his discretion, having due regard to the circumstances in each case, may pay a sum not exceeding $250 to such person as he prescribes to cover the burial and funeral expenses of the deceased veteran and the expense of preparing the body and transporting it to the place of burial. For the purpose of this subsection, the term "veteran" includes a person who died during a period deemed to be active military, naval, or air service under section 106(c) of this title.

(b) Except as hereafter provided in this subsection, no deduction shall be made from the burial allowance because of the veteran's net assets at the time of his death, or because of any contribution from any source toward the burial and funeral expenses (including transportation) unless the amount of expenses incurred is covered by the amount actually paid therefor by the United States, a State, any agency or political subdivision of the United States or of a State, or the employer of the deceased veteran. No claim shall be allowed (1) for more than the difference between the entire amount of the expenses incurred and the amount paid by any or all of the foregoing, or (2) when the burial allowance would revert to the funds of a public or private organization or would discharge such an organization's obligation without payment. The burial allowance or any part thereof shall not be paid in any case where specific provision is otherwise made for payment of expenses of funeral, transportation, and interment under any other Act.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1169; Pub. L. 88-359, July 7, 1964, 78 Stat. 296; Pub. L. 89-360, Mar. 7, 1966, 80 Stat. 29.)

AMENDMENTS

1966—Subsec. (a). Pub. L. 89-360 extended the authorized burial allowance to include peacetime veterans who die of a service connected disability but who have neither applied for disability compensation for the disability nor been discharged for the disability.

1964—Subsec. (b). Pub. L. 88-359 provided that no claim shall be allowed when the allowance would revert to the funds of a public or private organization, or would discharge such an organization's obligation without payment, and deleted the requirement that amounts paid by burial associations toward burial and funeral expenses be deducted prior to payment of the allowance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 903, 907, 908 of this title; title 50 App. section 461.

§ 903. Death in Veterans' Administration facility; plot allowance

(a) Where death occurs in a Veterans' Administration facility to which the deceased was properly admitted for hospital, nursing home, or domiciliary care under section 610 or 611(a) of this title, the Administrator—

(1) shall pay the actual cost (not to exceed $250) of the burial and funeral or, within such limits, may make contracts for such services without regard to the laws requiring advertisement for proposals for supplies and services for the Veterans' Administration; and

(2) shall, when such a death occurs in a State, transport the body to the place of burial in the same or any other State.

(b) In addition to the foregoing, if such a veteran, or a veteran eligible for a burial allowance under section 902 of this title, is not buried in a national cemetery or other cemetery under the jurisdiction of the United States, the Administrator, in his discretion, having due regard for the circumstances in each case, may pay a sum not exceeding $150, as a plot or interment allowance to such person as he prescribes. In any case where any part of the plot or interment expenses have been paid or assumed by a State, any agency or political subdivision of a State, or the employer of the deceased veteran, no claim for such allowance shall be allowed for more than the difference between the entire amount of the expenses incurred and the amount paid or assumed by any or all of the foregoing entities.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1170; Pub. L. 86-70, § 29(a), June 25, 1959, 73 Stat. 148; Pub. L. 86-624, § 25(b), July 12, 1960, 74 Stat. 418; Pub. L. 87-99, July 21, 1961, 75 Stat. 218; Pub. L. 89-358, § 4(i), Mar. 3, 1966, 80 Stat. 24; Pub. L. 93-43, § 5(a)(1), June 18, 1973, 87 Stat. 80; Pub. L. 94-581, title II, § 204, Oct. 21, 1976, 90 Stat. 2856.)

CODIFICATION

The enacting clause of Pub. L. 87-99 provided: "That section 903(b) is amended to read as follows:." Since the enacting clause did not specify the title of the Code which was amended, the amendment was executed to this section as the title of Pub. L. 87-99 provided in part: "An Act to equalize the provisions of title 38."

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-581 inserted ", nursing home," following "hospital" and substituted "611(a)" for "611" in the provisions preceding par. (1).

1973—Pub. L. 93-43, in revising the text, substituted reference to section "611" for "611(a)" in opening text of subsec. (a), designated existing provisions of subsec. (a) as first part of par. (1) of such subsec. (a), incorporated provisions of former subsec. (c) as second part of par. (1) of subsec. (a), redesignated former subsec. (b) as par. (2) of subsec. (a), and added subsec. (b).

1966—Subsec. (b). Pub. L. 89-358 deleted last sentence including the Canal Zone in the term "State" for purposes of subsec. (b), now incorporated in section 101(20) of this title.

1961—Subsec. (b). Pub. L. 87-99 substituted "a State" and "in the same, or any other State" for "the continental United States or Hawaii" and "in the continental United States or Hawaii", respectively, and defined State to include Canal Zone.

1960—Subsec. (b). Pub. L. 86-624 substituted "continental United States or Hawaii" for "continental United States (including Alaska)" in two instances.

1959—Subsec. (b). Pub. L. 86-70 substituted "continental United States (including Alaska), the Administrator shall transport the body to the place of burial in the continental United States (including Alaska)" for "continental United States, the Administrator shall transport the body to the place of burial in the United States, or to the place of burial within Alaska if the deceased was a resident of Alaska who had been brought to the United States as a beneficiary of the Veterans' Administration for hospital or domiciliary care".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 10(b) of Pub. L. 93-43 provided that: "Clause (1) of section 5(a) [amending this section] shall take effect on the first day of the second calendar month following the date of enactment of this Act [June 18, 1973]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 907 of this title.

§ 904. Claims for reimbursement

Applications for payments under section 902 of this title must be filed within two years after the burial of the veteran. If the burial allowance was not payable at the death of the veteran because of the nature of his discharge from the service, but after his death his discharge has been corrected by competent authority so as to reflect a discharge from the service under conditions other than dishonorable, then the burial allowance may be paid if a claim is filed within two years from the date of correction of the discharge. If a claimant's application is incomplete at the time it is originally submitted, the Administrator shall notify the applicant of the evidence necessary to complete the application. If such evidence is not received within one year from the date of such notification, no allowance may be paid.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1170; Pub. L. 88-3, Apr. 2, 1963, 77 Stat. 4; Pub. L. 91-24, § 7, June 11, 1969, 83 Stat. 34.)

AMENDMENTS

1969—Pub. L. 91-24 substituted "two years from the date of correction of the discharge" for "two years from whichever last occurs, the date of correction of the discharge or the date of enactment of this sentence".

1963—Pub. L. 88-3 authorized payment of a burial allowance in cases where it was not payable at death because of the nature of the veteran's discharge, where such discharge has been corrected by competent authority to reflect conditions other than dishonorable, and the claim is filed within two years from whichever last occurs, the date of correction of the discharge or the date of enactment of Pub. L. 88-3 [approved Apr. 2, 1963].

§ 905. Persons eligible under prior law

The death of any person who had a status which would, under the laws in effect on December 31, 1957, afford entitlement to the burial benefits and other benefits provided for in this chapter, but who did not meet the service requirements contained in this chapter, shall afford entitlement to such benefits, notwithstanding the failure of such person to meet such service requirements.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1170.)

§ 906. Headstones and markers

(a) The Administrator shall furnish, when requested, appropriate Government headstones or markers at the expense of the United States for the unmarked graves of the following:

(1) Any individual buried in a national cemetery or in a post cemetery.

(2) Any individual eligible for burial in a national cemetery (but not buried there), except for those persons or classes of persons enumerated in section 1002(4), (5), and (6) of this title.

(3) Soldiers of the Union and Confederate Armies of the Civil War.

(b) The Administrator shall furnish, when requested, an appropriate memorial headstone or marker to commemorate any veteran dying in the service, and whose remains have not been recovered or identified or were buried at sea, for placement by the applicant in a national cemetery area reserved for such purposes under the provisions of section 1003 of this title, or in any private or local cemetery.

(Added Pub. L. 93-43, § 5(a)(2), June 18, 1973, 87 Stat. 80.)

EFFECTIVE DATE

Section 10(c) of Pub. L. 93-43 provided that: "Clause (2) of section 5(a) [enacting this section and section 907 of this title] and sections 6 [enacting provisions set out a note under section 1004 of this title] and 7 [repealing sections 271 to 276, 278 to 279d, 281 to 282, 286 to 290 and 296 of Title 24, Hospitals and Asylums, and enacting provisions set out as notes under sections 271 to 276 of title 24] of this Act shall take effect September 1, 1973, or on such earlier date as the President may prescribe and publish in the Federal Register."

§ 907. Death from service-connected disability

In any case in which a veteran dies as the result of a service-connected disability or disabilities, the Administrator, upon the request of the survivors of such veteran, shall pay the burial and funeral expenses incurred in connection with the death of the veteran in an amount not exceeding the amount authorized to be paid under section 8134(a) of title 5 in the case of a Federal employee whose death occurs as the result of an injury sustained in the performance of duty. Funeral and burial benefits provided under this section shall be in lieu of

any benefits authorized under sections 902 and 903(a)(1) and (b) of this title.

(Added Pub. L. 93-43, § 5(a)(2), June 18, 1973, 87 Stat. 80).

EFFECTIVE DATE

Section effective Sept. 1, 1973, or such earlier date as the President may prescribe and publish in the Federal Register, see section 10(c) of Pub. L. 93-43, set out as an Effective Date note under section 906 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 908 of this title.

§ 908. Transportation of deceased veteran to a national cemetery

Where a veteran dies as the result of a service-connected disability, or is in receipt of (but for the receipt of retirement pay or pension under this title would have been entitled to) disability compensation, the Administrator may pay, in addition to any amount paid pursuant to section 902 or 907 of this title, the cost of transportation of the deceased veteran for burial in a national cemetery. Such payment shall not exceed the cost of transportation to the national cemetery nearest the veteran's last place of residence in which burial space is available.

(Added Pub. L. 94-433, title III, § 304(a), Sept. 30, 1976, 90 Stat. 1377.)

EFFECTIVE DATE

Section effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

CHAPTER 24—NATIONAL CEMETERIES AND MEMORIALS

Sec.
1000. Establishment of National Cemetery System; composition of such system; appointment of director.
1001. Advisory Committee on Cemeteries and Memorials.
1002. Persons eligible for interment in national cemeteries.
1003. Memorial areas.
1004. Administration.
1005. Disposition of inactive cemeteries.
1006. Acquisition of lands.
1007. Authority to accept and maintain suitable memorials.

§ 1000. Establishment of National Cemetery System; composition of such system; appointment of director

(a) There shall be within the Veterans' Administration a National Cemetery System for the interment of deceased servicemen and veterans. To assist him in carrying out his responsibilities in administering the cemeteries within the System, the Administrator may appoint a Director, National Cemetery System, who shall perform such functions as may be assigned by the Administrator.

(b) The National Cemetery System shall consist of—

(1) national cemeteries transferred from the Department of the Army to the Veterans' Administration by the National Cemeteries Act of 1973;

(2) cemeteries under the jurisdiction of the Veterans' Administration on the date of enactment of this chapter; and

(3) any other cemetery, memorial, or monument transferred to the Veterans' Administration by the National Cemeteries Act of 1973, or later acquired or developed by the Administrator.

(Added Pub. L. 93-43, § 2(a), June 18, 1973, 87 Stat. 75.)

REFERENCES IN TEXT

The National Cemeteries Act of 1973, referred to in subsec. (b)(1), (3), is Pub. L. 93-43, June 18, 1973, 87 Stat. 75, which is classified principally to this chapter (§ 1000 et seq.). For complete classification of this Act to the Code, see section 1 of Pub. L. 93-43 set out as a Short Title of 1973 Amendment note under section 101 of this title and Tables volume.

For national cemeteries transferred from the Department of the Army to the Veterans' Administration by the National Cemeteries Act of 1973, and any other cemetery, memorial, or monument transferred to the Veterans' Administration by the National Cemeteries Act of 1973, referred to in subsec. (b)(1) and (3), see Transfer of Functions note set out under section 1004 of this title.

The date of enactment of this chapter, referred to in subsec. (b)(2), is June 18, 1973.

EFFECTIVE DATE

Section 10(a) of Pub. L. 93-43 provided that: "The first section [set out as a Short Title of 1973 Amendment note under section 101 of this title] and sections 2 [enacting this chapter and redesignating former par. (131) as (132) and enacting par. (133) of section 5316 of Title 5, Government Organization and Employees], 3 [set out as a note under section 1004 of this title], 4 [enacting section 218 and repealing section 625 of this title], and 8 [amending section 3505(a) of this title] of this Act shall take effect on the date of enactment of this Act [June 18, 1973]."

SHORT TITLE

For Short Title of Pub. L. 93-43, June 18, 1973, 87 Stat. 75, which enacted this chapter, see Short Title of 1973 Amendment note set out under section 101 of this title.

§ 1001. Advisory Committee on Cemeteries and Memorials

There shall be appointed by the Administrator an Advisory Committee on Cemeteries and Memorials. The Administrator shall advise and consult with the Committee from time to time with respect to the administration of the cemeteries for which he is responsible, and with respect to the selection of cemetery sites, the erection of appropriate memorials, and the adequacy of Federal burial benefits. The Committee shall make periodic reports and recommendations to the Administrator and to Congress.

(Added Pub. L. 93-43, § 2(a), June 18, 1973, 87 Stat. 75.)

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776,

set out in the Appendix to Title 5, Government Organization and Employees.

§ 1002. Persons eligible for interment in national cemeteries

Under such regulations as the Administrator may prescribe and subject to the provisions of section 3505 of this title, the remains of the following persons may be buried in any open national cemetery in the National Cemetery System:

(1) Any veteran (which for the purposes of this chapter includes a person who died in the active military, naval, or air service).

(2) Any member of a Reserve component of the Armed Forces, and any member of the Army National Guard or the Air National Guard, whose death occurs under honorable conditions while he is hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while he is performing active duty for training, inactive duty training, or undergoing that hospitalization or treatment at the expense of the United States.

(3) Any member of the Reserve Officers' Training Corps of the Army, Navy, or Air Force whose death occurs under honorable conditions while he is—

(A) attending an authorized training camp or on an authorized practice cruise;

(B) performing authorized travel to or from that camp or cruise; or

(C) hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while he is—

(i) attending that camp or on that cruise;

(ii) performing that travel; or

(iii) undergoing that hospitalization or treatment at the expense of the United States.

(4) Any citizen of the United States who, during any war in which the United States is or has been engaged, served in the armed forces of any government allied with the United States during that war, and whose last such service terminated honorably.

(5) The wife, husband, surviving spouse, minor child, and, in the discretion of the Administrator, unmarried adult child of any of the persons listed in paragraphs (1) through (4).

(6) Such other persons or classes of persons as may be designated by the Administrator.

(Added Pub. L. 93–43, § 2(a), June 18, 1973, 87 Stat. 75.)

Section Referred to in Other Sections

This section is referred to in section 906 of this title.

§ 1003. Memorial areas

(a) The Administrator shall set aside, when available, suitable areas in national cemeteries to honor the memory of members of the Armed Forces missing in action, or who died or were killed while serving in such forces and whose remains have not been identified, have been buried at sea or have been determined to be nonrecoverable.

(b) Under regulations prescribed by the Administrator, appropriate memorials or markers shall be erected to honor the memory of those individuals, or group of individuals, referred to in subsection (a) of this section.

(c) All national and other veterans' cemeteries in the National Cemetery System created by this Act shall be considered national shrines as a tribute to our gallant dead and, notwithstanding the provisions of any other law, the Administrator is hereby authorized to permit appropriate officials to fly the flag of the United States of America at such cemeteries twenty-four hours each day.

(Added Pub. L. 93–43, § 2(a), June 18, 1973, 87 Stat. 76.)

References in Text

This Act, referred to in subsec. (c), is Pub. L. 93–43, June 18, 1973, 87 Stat. 75, known as the National Cemeteries Act of 1973, which is classified principally to this chapter (§ 1000 et seq.). For complete classification of this Act to the Code, see section 1 of Pub. L. 93–43 set out as a Short Title of 1973 Amendment note under section 101 of this title and Tables volume.

For composition of National Cemetery System created by this Act, referred to in subsec. (c), see section 1000(b) of this title.

Section Referred to in Other Sections

This section is referred to in section 906 of this title.

§ 1004. Administration

(a) The Administrator is authorized to make all rules and regulations which are necessary or appropriate to carry out the provisions of this chapter, and may designate those cemeteries which are considered to be national cemeteries.

(b) In conjunction with the development and administration of cemeteries for which he is responsible, the Administrator shall provide all necessary facilities including, as necessary, superintendents' lodges, chapels, crypts, mausoleums, and columbaria.

(c) Each grave in a national cemetery shall be marked with an appropriate marker. Such marker shall bear the name of the person buried, the number of the grave, and such other information as the Administrator shall by regulation prescribe.

(d) There shall be kept in each national cemetery, and at the main office of the Veterans' Administration, a register of burials in each cemetery setting forth the name of each person buried in the cemetery, the number of the grave in which he is buried, and such other information as the Administrator by regulation may prescribe.

(e) In carrying out his responsibilities under this chapter, the Administrator may contract with responsible persons, firms, or corporations for the care and maintenance of such cemeteries under his jurisdiction as he shall choose, under such terms and conditions as he may prescribe.

(f) The Administrator is authorized to convey to any State, or political subdivision thereof, in which any national cemetery is located, all right, title, and interest of the United States in and to any Government owned or controlled approach road to such cemetery if, prior to the delivery of any instrument of conveyance, the State or political subdivision to which such con-

veyance is to be made notifies the Administrator in writing of its willingness to accept and maintain the road included in such conveyance. Upon the execution and delivery of such a conveyance, the jurisdiction of the United States over the road conveyed shall cease and thereafter vest in the State or political subdivision concerned.

(g) Notwithstanding any other provision of law, the Administrator may at such time as he deems desirable, relinquish to the State in which any cemetery, monument, or memorial under his jurisdiction is located, such portion of legislative jurisdiction over the lands involved as is necessary to establish concurrent jurisdiction between the Federal Government and the State concerned. Such partial relinquishment of jurisdiction under the authority of this subsection may be made by filing with the Governor of the State involved a notice of such relinquishment and shall take effect upon acceptance thereof by the State in such manner as its laws may prescribe.

(Added Pub. L. 93–43, § 2(a), June 18, 1973, 87 Stat. 76.)

TRANSFER OF FUNCTIONS

Section 6 of Pub. L. 93–43 provided that:

"[*Jurisdiction*] (a)(1) There are hereby transferred from the Secretary of the Army to the Administrator of Veterans' Affairs all jurisdiction over, and responsibility for, (A) all national cemeteries (except the cemetery at the United States Soldiers' and Airmen's Home and Arlington National Cemetery), and (B) any other cemetery (including burial plots), memorial, or monument under the jurisdiction of the Secretary of the Army immediately preceding the effective date of this section [see note hereunder] (except the cemetery located at the United States Military Academy at West Point) which the President determines would be appropriate in carrying out the purposes of this Act [see section 1 of Pub. L. 93–43 set out as a Short Title of 1973 Amendment note under section 101 of this title].

"(2) There are hereby transferred from the Secretary of the Navy and the Secretary of the Air Force to the Administrator of Veterans' Affairs all jurisdiction over, and responsibility for, any cemetery (including burial plots), memorial, or monument under the jurisdiction of either Secretary immediately preceding the effective date of this section [see note hereunder] (except those cemeteries located at the United States Naval Academy at Annapolis, the United States Naval Home Cemetery at Philadelphia, and the United States Air Force Academy at Colorado Springs) which the President determines would be appropriate in carrying out the purposes of this Act [see section 1 of Pub. L. 93–43 set out as a Short Title of 1973 Amendment note under section 101 of this title].

"[*Personnel; property; records; and funds*] (b) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds available to, or under the jurisdiction of, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force, in connection with functions transferred by this Act, as determined by the Director of the Office of Management and Budget, are transferred to the Administrator of Veterans' Affairs.

"[*Savings provisions; offenses, penalties and forfeitures*] (c) All offenses committed and all penalties an forfeitures incurred under any of the provisions of law amended or repealed by this Act may be prosecuted and punished in the same manner and with the same effect as if such amendments or repeals had not been made.

"[*Same; rules; regulations, permits, and other privileges*] (d) All rules, regulations, orders, permits, and other privileges issued or granted by the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force with respect to the cemeteries, memorials, and monuments transferred to the Veterans' Administration by this Act, unless contrary to the provisions of such Act, shall remain in full force and effect until modified, suspended, overruled, or otherwise changed by the Administrator of Veterans' Affairs, by any court of competent jurisdiction, or by operation of law.

"[*Abatement of proceedings; proceedings against United States or officer of Veterans' Administration; judicial orders; continuation of suits by Administrator*] (e) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an official of the Department of the Army, the Department of the Navy, or the Department of the Air Force with respect to functions transferred under subsection (a) or (c) of this section shall abate by reason of the enactment of this section. No cause of action by or against any such department with respect to functions transferred under such subsection (a) or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this section. Causes of actions, suits, or other proceedings may be asserted by or against the United States or such officer of the Veterans' Administration as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, upon its own motion or that of any party, enter an order which will give effect to the provisions of this subsection. If before the date this section takes effect [see note hereunder], any such department, or officer thereof in his official capacity, is a party to a suit with respect to any function so transferred, such suit shall be continued by the Administrator of Veterans' Affairs."

Section effective Sept. 1, 1973, or such earlier date as the President may prescribe and publish in the Federal Register, see section 10(c) of Pub. L. 93–43, set out as an Effective Date note under section 906 of this title.

FUNCTIONS, POWERS, AND DUTIES OF SECRETARIES UNAFFECTED

Repeal of sections 271 to 276, 278 to 279d, 281 to 282, 286 to 290, and 296 of Title 24, Hospitals and Asylums, and enactment of provisions set out as notes under sections 271 to 276 of Title 24 without effect upon functions, powers, and duties of secretaries of the military departments with respect to cemeteries, memorials, or monuments under the jurisdiction of the secretary concerned to which the transfer provisions of section 6(a) of Pub. L. 93–43, set out as a note above, do not apply, see section 7(b) of Pub. L. 93–43, set out as a note under sections 271 to 276 of Title 24.

STUDIES; RECOMMENDATIONS TO CONGRESS

Section 3 of Pub. L. 93–43 authorized the Administrator to conduct a comprehensive study concerning the criteria governing the development and operation of the National Cemetery System, including the concept of regional cemeteries, the relationship of the National Cemetery System to other burial benefits provided by Federal and State Governments to servicemen and veterans, steps taken to conform the existing system to the recommended criteria, private burial and funeral costs in the United States, current headstone and marker programs, and the marketing and sales practices of non-Federal cemeteries and interment facilities, and to submit his recommendations within twelve months after the convening of the first session of the Ninety-third Congress and also authorized the Administrator, in conjunction with the Secretary of Defense, to conduct a comprehensive study concerning the advisability of including Arlington National Cemetery within the National Cemetery System, the appropriateness of maintaining the present eligibility requirements for burial at Arlington National Cemetery and the advisability of establishing another national cemetery, and to submit the results of their joint recommendations within twelve months

after the convening of the first session of the Ninety-third Congress.

§ 1005. Disposition of inactive cemeteries

(a) The Administrator may transfer, with the consent of the agency concerned, any inactive cemetery, burial plot, memorial, or monument within his control to the Department of the Interior for maintenance as a national monument or park, or to any other agency of the Government. Any cemetery transferred to the Department of the Interior shall be administered by the Secretary of the Interior as a part of the National Park System, and funds appropriated to the Secretary for such system shall be available for the management and operation of such cemetery.

(b) The Administrator may also transfer and convey all right, title, and interest of the United States in or to any inactive cemetery or burial plot, or portion thereon, to any State, county, municipality, or proper agency thereof, in which or in the vicinity of which such cemetery or burial plot is located, but in the event the grantee shall cease or fail to care for and maintain the cemetery or burial plot or the graves and monuments contained therein in a manner satisfactory to the Administrator, all such right, title, and interest transferred or conveyed by the United States, shall revert to the United States.

(c) If a cemetery not within the National Cemetery System has been or is to be discontinued, the Administrator may provide for the removal of remains from that cemetery to any cemetery within such System. He may also provide for the removal of the remains of any veteran from a place of temporary interment, or from an abandoned grave or cemetery to a national cemetery.

(Added Pub. L. 93-43, § 2(a), June 18, 1973, 87 Stat. 77.)

§ 1006. Acquisition of lands

As additional lands are needed for national cemeteries, they may be acquired by the Administrator by purchase, gift (including donations from States or political subdivisions thereof), condemnation, transfer from other Federal agencies, or otherwise, as he determines to be in the best interest of the United States.

(Added Pub. L. 93-43, § 2(a), June 18, 1973, 87 Stat. 78.)

§ 1007. Authority to accept and maintain suitable memorials

Subject to such restrictions as he may prescribe, the Administrator may accept gifts, devises, or bequests from legitimate societies and organizations or reputable individuals, made in any manner, which are made for the purpose of beautifying national cemeteries, or are determined to be beneficial to such cemetery. He may make land available for this purpose, and may furnish such care and maintenance as he deems necessary.

(Added Pub. L. 93-43, § 2(a), June 18, 1973, 87 Stat. 78.)

PART III—READJUSTMENT AND RELATED BENEFITS

Chap.		Sec.
31.	Vocational Rehabilitation	1501
32.	Post-Vietnam Era Veterans' Educational Assistance	1601
[33.	Repealed.]	
34.	Veterans' Educational Assistance [1]	1650
35.	Survivors' and Dependents' Educational Assistance	1700
36.	Administration of Educational Benefits	1770
37.	Home, Condominium, and Mobile Home Loans	1801
39.	Automobiles and Adaptive Equipment for Certain Disabled Veterans and Members of the Armed Forces	1901
41.	Job Counseling, Training, and Placement Service for Veterans	2001
42.	Employment and Training of Disabled and Vietnam Era Veterans	2011
43.	Veteran's Reemployment Rights	2021

AMENDMENTS

1976—Pub. L. 94-502, title III, § 309(b), title IV, § 405, Oct. 15, 1976, 90 Stat. 2391, 2397, added chapter 32 and substituted "Survivors' and Dependents' Educational Assistance" for "War Orphans' and Widows' Education Assistance" in chapter 35 heading.

1974—Pub. L. 93-569, § 7(d), Dec. 31, 1974, 88 Stat. 1866, substituted "Home, Condominium, and Mobile Home Loans" for "Home, Farm, and Business Loans", in chapter 37 heading.

Pub. L. 93-508, title IV, § 404(b), Dec. 3, 1974, 88 Stat. 1600, added chapter 43.

1972—Pub. L. 92-540, title V, §§ 502(b), 503(b), Oct. 24, 1972, 86 Stat. 1097, 1098, substituted ", Training and" for "and Employment" in chapter 41 heading, and added chapter 42.

1971—Pub. L. 91-666, § 2(b), Jan. 11, 1971, 84 Stat. 2000, in chapter 39 heading substituted "Automobiles and Adaptive Equipment for Certain Disabled Veterans and Members of the Armed Forces" for "Automobiles for Disabled Veterans".

1968—Pub. L. 90-631, § 2(h)(2), Oct. 23, 1968, 82 Stat. 1333, substituted "War Orphans' and Widows' Educational Assistance——1700" for "War Orphan's Educational Assistance——1701" in heading of chapter 35.

1966—Pub. L. 89-358, §§ 4(c), 6(b), Mar. 3, 1966, 80 Stat. 23, 27 inserted chapter "34. Veterans' Educational Assistance . . . . . 1650" and struck out chapter "33. Education of Korean Conflict Veterans . . . . . 1601" and added chapter 36; and substituted "Job Counseling and Employment Placement Service for Veterans" for "Unemployment Benefits for Veterans" in chapter 41 heading, respectively.

1965—Pub. L. 89-50, § 1(b), June 24, 1965, 79 Stat. 173, eliminated chapter 43 "Mustering-Out Payments".

CHAPTER 31—VOCATIONAL REHABILITATION

Sec.	
1501.	Definitions.
1502.	Basic entitlement.
[1502A.	Repealed.]
1503.	Periods of eligibility.
1504.	Subsistence allowances.
1505.	Leaves of absence.
1506.	Medical care of trainees. [2]
1507.	Loans to trainees.
1508.	Regulations to promote good conduct.

[1] So in original. Does not conform to chapter heading.

[2] So in original. Does not conform to section catchline.

Sec.
1509. Books, supplies, and equipment.
1510. Vocational rehabilitation for hospitalized persons.
1511. Training and training facilities.

AMENDMENTS

1965—Pub. L. 89-138, § 2(1), Aug. 26, 1965, 79 Stat. 578, struck out item 1502A, added item 1503, and redesignated former item 1503 as 1511.

1962—Pub. L. 87-591, § 2, Aug. 16, 1962, 76 Stat. 394, added item 1502A.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 101, 106, 109, 243, 351, 601, 618, 628, 1685, 1698, 1779, 1780, 1790, 1792, 1793, 1795, 2013, 3013, 3107 of this title; title 5 section 8525; title 20 section 1070e-1; title 29 section 981.

§ 1501. Definitions

For the purposes of this chapter—

(1) The term "World War II" means the period beginning on September 16, 1940, and ending on July 25, 1947.

(2) The term "vocational rehabilitation" means training (including educational and vocational counseling, all appropriate individualized tutorial assistance, and other necessary incidental services) for the purpose of restoring employability, to the extent consistent with the degree of disablement, lost by virtue of a handicap due to service-connected disability.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1171; Pub. L. 93-508, title I, § 101(1), Dec. 3, 1974, 88 Stat. 1578.)

AMENDMENTS

1974—Par. (2). Pub. L. 93-508 substituted "vocational counseling, all appropriate individualized tutorial assistance, and other" for "vocational counseling and other".

EFFECTIVE DATE OF 1974 AMENDMENT

Section 501 of Pub. L. 93-508 provided that: "Title I of this Act [amending sections 1501, 1502, 1504, 1677, 1682, 1696, 1732, 1742, 1786, and 1787 of this title, and enacting provisions set out as notes under this section and section 1780 of this title] shall become effective on September 1, 1974."

STUDY OF VOCATIONAL OBJECTIVE PROGRAMS; SALES AND SALES MANAGEMENT COURSES; REPORT TO PRESIDENT AND CONGRESS

Pub. L. 94-502, title II, § 204, Oct. 15, 1976, 90 Stat. 2386, authorized the Administrator to conduct a study of the vocational objective programs approved for enrollment of veterans and other eligible persons under chapters 31, 34, 35, and 36 of this title and to include in this study the extent to which these programs complied with the applicable provision of those chapters, particularly the requirements of section 1673(a)(2) of this title, and to report the results of this study, accompanied by any recommendations for legislative or administrative action, to the President and Congress not later than 180 days after Oct. 15, 1976.

§ 1502. Basic entitlement

(a) Every veteran who is in need of vocational rehabilitation on account of a service-connected disability which is, or but for the receipt of retirement pay would be, compensable under chapter 11 of this title shall be furnished such vocational rehabilitation as may be prescribed by the Administrator, if such disability arose out of service during World War II or thereafter.

(b) Unless a longer period is prescribed by the Administrator, no course of vocational rehabilitation may exceed four years. If the veteran has pursued an educational or training program under chapters 33 (prior to its repeal), 34, 35, or 36 of this title, such program shall be utilized to the fullest extent practicable in determining the character and duration of the vocational rehabilitation to be furnished the veteran under this chapter.

(c) Vocational rehabilitation may not be afforded outside of a State to a veteran on account of post-World War II service if the veteran, at the time of such service, was not a citizen of the United States.

(d) Veterans pursuing a program of vocational rehabilitation training under the provisions of this chapter shall also be eligible, where feasible, to perform veteran-student services pursuant to section 1685 of this title and for advance subsistence allowance payments as provided by section 1780 of this title.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1171; Pub. L. 86-721, § 3, Sept. 8, 1960, 74 Stat. 820; Pub. L. 87-815, § 7, Oct. 15, 1962, 76 Stat. 927; Pub. L. 89-138 § 2(2), Aug. 26, 1965, 79 Stat. 578; Pub. L. 90-631, § 1(a), Oct. 23, 1968, 82 Stat. 1331; Pub. L. 92-540, title I, § 101(1), title III, § 301, Oct. 24, 1972, 86 Stat. 1074, 1080; Pub. L. 93-508, title I, § 101(2), Dec. 3, 1974, 88 Stat. 1578; Pub. L. 94-502, title I, § 104(1), Oct. 15, 1976, 90 Stat. 2384.)

REFERENCES IN TEXT

Chapter 33, referred to in subsec. (b), is Pub. L. 87-857, Sept. 2, 1958, 72 Stat. 1174-1192, which was formerly classified to sections 1601, 1610-1613, 1620-1626, 1631-1634, 1641-1645, 1651-1656, and 1661-1669 of this title and was repealed by section 4(a) of Pub. L. 89-358, Mar. 3, 1966, 80 Stat. 23.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-502 substituted "the veteran" for "him" following "to be furnished".

1974—Subsec. (a). Pub. L. 93-508 struck out pars. (1) and (2), and substituted "if such disability arose out of service during World War II or thereafter." for "if such disability—".

1972—Subsec. (b). Pub. L. 92-540, § 301, added reference to chapter 36 of this title.

Subsec. (d). Pub. L. 92-540, § 101(1), added subsec. (d).

1968—Subsec. (b). Pub. L. 90-631 added the provision that if the veterans has pursued an educational or training program under chapter 33 (prior to its repeal), 34, 35 of this title, such program shall be utilized to the fullest extent practical in determining the character and duration of the vocational rehabilitation to be furnished him under this chapter.

1965—Subsec. (c). Pub. L. 89-138 eliminated pars. (1)-(3) which related to vocational rehabilitation for veterans on account of World War II service or post-World War II service, and redesignated former par. (4) as subsec. (c). See section 1503 of this title.

1962—Subsec. (a). Pub. L. 87-815, § 7(a), included veterans whose disability arose out of service after World War II, and before the Korean conflict, or after the Korean conflict, and is rated as 30 per centum or more, or if less than such percentage is clearly shown to have caused a pronounced employment handicap.

Subsec. (c)(3). Pub. L. 87-815, § 7(b), inserted provisions prohibiting vocational rehabilitation to a veteran on account of post-World War II service after nine years following his discharge or release, and substitut-

ed provisions permitting vocational rehabilitation until nine years after the date of enactment of this subparagraph where the disability arose from service before such date, but either after World War II, and before or after the Korean conflict, for provisions which prohibited vocational rehabilitation after nine years following discharge or release, but in no event after Jan. 31, 1964, if the veteran was discharged or released after Aug. 19, 1954.

Subsec. (c)(4). Pub. L. 87-815, § 7(c), substituted "post-World War II service" for "Korean conflict service", and "such service" for "his service during the Korean conflict".

Subsec. (d). Pub. L. 87-815, § 7(d), repealed subsec. (d) which permitted vocational rehabilitation to be afforded a veteran for Korean conflict service, notwithstanding that benefits under part VIII of Veterans Regulation Numbered 1(a), may have been previously afforded him for World War II service.

1960—Subsec. (c). Pub. L. 86-721 substituted "Except as provided in paragraph (2), vocational" for "Vocational" in par. (1), added par. (2), and redesignated former pars. (2) and (3) as pars. (3) and (4).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Sept. 1, 1974, see section 501 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1501 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 601(a) of Pub. L. 92-540 provided that: "The rate increases provided in Title I of this Act [which amended subsec. (d) of this section and sections 1504, 1507, 1677, 1682, 1696, 1732, and 1742 of this title] and the rate increases provided by the provisions of section 1787, title 38, United States Code (as added by section 316 of this Act) shall become effective October 1, 1972; except, for those veterans and eligible persons in training on the date of enactment [Oct. 24, 1972], the effective date shall be the date of the commencement of the current enrollment period, but not earlier than September 1, 1972."

EFFECTIVE DATE OF 1968 AMENDMENT

Section 6(a) of Pub. L. 90-631 provided that: "The amendments made by the first section and sections 2, 3, and 5 of this Act [enacting sections 1700 and 1791 of this title, amending sections 1502, 1661, 1677, 1682, 1701, 1711, 1712, and 1720 of this title, and enacting provisions set out as a note under section 1712 of this title] shall take effect on the first day of the second calendar month which begins after the date of the enactment of this Act [Oct. 23, 1968]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1503 of this title.

[§ 1502A. Repealed. Pub. L. 89-138, § 2(3), Aug. 26, 1965, 79 Stat. 578]

Section, added Pub. L. 87-591, § 1, Aug. 16, 1962, 76 Stat. 393, authorized vocational rehabilitation for blinded veterans, and is now covered by section 1503 of this title.

§ 1503. Periods of eligibility

(a) Unless a longer period of eligibility is authorized pursuant to subsection (b) or (c) of this section, vocational rehabilitation may not be afforded to a veteran after nine years following the veteran's discharge or release; except vocational rehabilitation may be afforded to any person until October 15, 1971, if such person is eligible for vocational rehabilitation by reason of a disability arising from service before October 15, 1962, but either after World War II, and before the Korean conflict, or after the Korean conflict.

(b) Where a veteran is prevented from entering, or having entered, from completing vocational rehabilitation training within the period of eligibility prescribed in subsection (a) of this section because—

(1) the veteran had not timely attained, retained, or regained medical feasibility for training because of disability;

(2) the veteran had not timely met the requirement of a discharge or release under conditions other than dishonorable, but the nature of such discharge or release was later changed by appropriate authority; or

(3) the veteran had not timely established the existence of a compensable service-connected disability,

such training may be afforded the veteran during a period not to exceed four years beyond the period of eligibility otherwise applicable to the veteran.

(c) A veteran who is found to be in need of vocational rehabilitation to overcome the handicap of blindness, or other serious disability, resulting from a service-connected disability which affords basic eligibility for vocational rehabilitation under section 1502 of this title may be afforded such vocational rehabilitation after the termination date otherwise applicable to the veteran, when such action is determined by the Administrator to be necessary for such veteran based upon such veteran's disability and need for vocational rehabilitation, if—

(1) the veteran had not previously been rehabilitated (that is, rendered employable) as the result of training furnished under this chapter, or

(2) such serious disability (whether blindness or otherwise) has developed from, or as a result of the worsening of the veteran's service-connected disability since the veteran was declared rehabilitated to the extent that it precludes the veteran performing the duties of the occupation for which the veteran was previously trained under this chapter.

(Added Pub. L. 89-138, § 1, Aug. 26, 1965, 79 Stat. 577, and amended Pub. L. 91-24, § 8, June 11, 1969, 83 Stat. 34; Pub. L. 94-502, title I, §§ 102, 104(2), (3), Oct. 15, 1976, 90 Stat. 2384.)

PRIOR PROVISIONS

A prior section 1503, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1171, was renumbered 1511.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502, § 104(2), substituted "the veteran's" for "his".

Subsec. (b). Pub. L. 94-502, § 104(2), substituted "the veteran" for "he" and "him" wherever appearing.

Subsec. (c). Pub. L. 94-502, §§ 102, 104(3), substituted "the veteran" for "him" and "he" wherever appearing, "worsening of the veteran's" for "worsening of his", "precludes the veteran" for "precludes his", and provision permitting the Administrator, when he determines it necessary, to afford vocational rehabilitation to a veteran for provision which established the period of eligibility as no more than 10 years beyond the vet-

eran's termination date or June 30, 1975, whichever was later.

1969—Subsec. (a). Pub. L. 91-24 struck out "—(1) August 20, 1963, if such person was discharged or released before August 20, 1954, or (2)" following "may be afforded to any person until".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

SAVINGS PROVISIONS

Section 3 of Pub. L. 89-138 provided that: "Any veteran entitled to vocational rehabilitation training under chapter 31 of title 38, United States Code; until July 25, 1965, pursuant to section 1502(c)(2) of such title, prior to the amendment made by this Act, shall continue to have the right to receive such training until such date, notwithstanding the amendments made by sections 1 and 2 hereof [adding this section, amending section 1502(c) of this title, redesignating former section 1503 as section 1511 of this title, and repealing section 1502A of this title]."

§ 1504. Subsistence allowances

(a) While pursuing a course of vocational rehabilitation training and for two months after the veteran's employability is determined, each veteran shall be paid a subsistence allowance as prescribed in this section.

(b) The subsistence allowance of a veteran-trainee is to be determined in accordance with the following table, and shall be the monthly amount shown in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the appropriate type of training as specified in column I:

Column I	Column II	Column III	Column IV	Column V
Type of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$226	$280	$329	$24
Three-quarter-time	170	210	247	18
Half-time	113	140	165	12
Farm cooperative, apprentice, or other on-job training:				
Full-time	197	238	275	18

(c) Where the course of vocational rehabilitation training consists of training on the job by an employer, such employer shall be required to submit monthly to the Administrator a statement in writing showing any wage, compensation, or other income paid by the employer to the veteran during the month, directly or indirectly. Based upon such written statements, the Administrator is authorized to reduce the subsistence allowance of such veteran to an amount considered equitable and just.

(d) The Administrator shall define full-time and part-time training in the case of all eligible veterans pursuing a course of vocational rehabilitation training under this chapter.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1172; Pub. L. 89-137, § 1(a), Aug. 26, 1965, 79 Stat. 576; Pub. L. 90-431, July 26, 1968, 82 Stat. 447; Pub. L. 91-219, title I, § 101, Mar. 26, 1970, 84 Stat. 76; Pub. L. 92-540, title I, § 101(2), Oct. 24, 1972, 86 Stat. 1074; Pub. L. 93-508, title I, § 101(3), Dec. 3, 1974, 88 Stat. 1578; Pub. L. 93-602, title II, § 202, Jan. 2, 1975, 88 Stat. 1958; Pub. L. 94-502, title I, §§ 101, 104(4), Oct. 15, 1976, 90 Stat. 2383, 2384.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502, § 104(4), substituted "the veteran's" for "his".

Subsec. (b). Pub. L. 94-502, § 101, increased the monthly subsistence allowance of a veteran trainee in column II from $209, $157, $105, and $182 to $226, $170, $113, and $197; in column III from $259, $194, $130, and $220 to $280, $210, $140, and $238; in column IV from $304, $229, $152, and $254 to $329, $247, $165, and $275; in column V from $22, $17, $11, and $17 to $24, $18, $12 and $18, respectively.

Subsec. (c). Pub. L. 94-502, § 104(4), substituted "the employer" for "him".

1975—Subsec. (b). Pub. L. 93-602 increased the monthly subsistence allowance of a veteran-trainee in column II from $201, $151, $100, and $175 to $209, $157, $105, and $182; in column III from $249, $188, $125, and $212 to $259, $194, $130, and $220; in column IV from $293, $221, $147, and $245 to $304, $229, $152, and $254; in column V from $21 to $22 respectively.

1974—Subsec. (b). Pub. L. 93-508 increased the monthly subsistence allowance of a veteran-trainee in column II from $170, $128, $85, $148, to $201, $151, $100, $175; in column III from $211, $159, $106, $179 to $249, $188, $125, $212; in column IV from $248, $187, $124, $207 to $293, $221, $147, $245; and in column V from $18, $14, $9, $14 to $21, $17, $11, and $17 respectively.

1972—Subsec. (b). Pub. L. 92-540 in column I substituted "Farm cooperative" for "Institutional on-farm", in column II substituted "$170" for "$135", "$128" for "$98", "$85" for "$67", and "$148" for "$118", in column III substituted "$211" for "$181", "$159" for "$133", "$106" for "$91", and "$179" for "$153", in column IV substituted "$248" for "$210", "$187" for "$156", "$124" for "$102", and "$207" for "$181", in heading for column IV substituted "Two dependents" for "Two or more dependents", and set forth provisions formerly set out following table as column V, and as so enumerated, increased the subsistence allowance of a veteran-trainee with more than two dependents, and struck out prerequisites for such increases.

1970—Subsec. (b). Pub. L. 91-219 increased the monthly subsistence allowance of a veteran-trainee in column II from $110, $80, $55, and $95 to $135, $98, $67, and $118; in column III from $150, $110, $75, and $125 to $181, $133, $91, and $153; in column IV from $175, $130, $85, and $150 to $210, $156, $102 and $181, respectively.

1968—Subsec. (b). Pub. L. 90-431 in the table of subsistence allowances added provisions for three quarters time and half time institutional training and provided that institutional on-farm, apprentice or other on-job training be full time in order for the trainee to receive a subsistence allowance, and in the material following the table substituted "full-time trainee" for "trainee".

Subsec. (d). Pub. L. 90-431 added subsec. (d).

1965—Subsec. (b). Pub. L. 89-137 substituted the table of subsistence allowances for veteran-trainees for provisions which prescribed the subsistence allowance of veterans with no dependents.

Subsec. (c). Pub. L. 89-137 redesignated subsec. (d) as (c), and repealed former subsec. (c) which related to subsistence allowance for veterans with dependents. See subsec. (b) of this section.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 703 of Pub. L. 94-502 provided that:

"(a) Sections 101 [amending subsec. (b) of this section], 201 [amending sections 1682 and 1696(b) of this title], 203 [amending section 1661(a), (c) of this title], 207 [amending section 1682 of this title], 209 [amending section 1692 of this title], 301 [amending sections 1732 and 1742 of this title], 303 [amending section 1711(a), (b) of this title], 304 [amending section 1712 (a), (d) to (g) of this title], 308 [amending section 1732 of this title], 501 [amending sections 1786(a) and 1787 of this title], 502 [amending section 1798(b), (d) of this title], 503 [amending section 1774 of this title], and 508 [amending section 1784(b) of this title] of this Act shall become effective on October 1, 1976.

"(b) Sections 102 [amending section 1503 of this title], 104 [amending subsecs. (a) and (c) of this section, and sections 1502, 1503, 1505, 1507 to 1511 of this title], 202 [amending section 1652 of this title], 204 [enacting a provision set out as a note under section 1501 of this title], 205(1) [amending section 1673(a)(2) of this title], 205(2) [amending section 1673(a)(3) of this title], 205(3) [amending section 1673(a)(4) of this title], 208 [amending section 1685 of this title], 210 [amending sections 1652, 1681, 1696(d), and 1698 of this title], 211 [amending sections 1652, 1661(a), 1662, 1663, 1670, 1671, 1673(a), 1674, 1676, 1681, 1685, 1691, 1696(a), and 1698 of this title], 302 [amending section 1701 of this title], 305 [amending section 1713 of this title], 306 [amending section 1723 of this title], 309 [amending section 1731 of this title], 310 [amending sections 1700, 1701, 1711(b), 1712(a), (c), (e), (f), 1720, 1721, 1723, 1724, 1731, 1733, 1734, 1736, 1741, 1743, 1761, and 1763 of this title], 506 [amending section 1780(a) of this title], 510 [amending section 1790 of this title], 511 [amending section 1793 of this title], 513 [amending sections 1771, 1775(a), 1777, 1779, 1780(a) to (e), (g), 1781, 1783, 1784(a), (b), 1786(a) to (c), 1790, 1791, 1794, 1796(c), 1798(b), (e) and 1799 of this title] (other than paragraphs (7), (8), (9), and (10) of subsection (a)) [amending section 1780(d) to (f), and (g) of this title] of this Act shall become effective on the date of enactment of this Act [Oct. 15, 1976].

"(c) Sections 103 [amending section 1511 of this title], 205(4) [amending section 1673(d) of this title], 206 [amending section 1674 of this title], 307 [amending section 1724 of this title], 504 [amending section 1775(a), (b) of this title], 505 [amending section 1780(a) of this title], 507 [amending section 1784(a) of this title], 509 [amending sections 1788 and 1789 of this title], 512 [amending section 1796(b) of this title], and 701 [amending section 3101 of this title] and title VI of this Act [enacting section 2002A of this title, and amending sections 2002-2008, 2011, 2012, 2021, and 2024 of this title, and amending a provision set out as a note under section 2002 of this title] shall become effective on December 1, 1976."

EFFECTIVE DATE OF 1975 AMENDMENT

Section 206 of Pub. L. 93-602 provided that: "The provisions of this title [amending sections 1504, 1677, 1682, 1696, 1732, 1742, 1786, and 1787 of this title and enacting provisions set out as a note under this section] shall become effective on January 1, 1975."

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Sept. 1, 1974, see section 501 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1501 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-540 effective Oct. 1, 1972, except for those veterans and eligible persons in training on Oct. 24, 1972, see section 601(a) of Pub. L. 92-540, set out as an Effective Date of 1972 Amendment note under section 1502 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 301 of Pub. L. 91-219 provided that: "Title I of this Act [amending sections 1504, 1677(b), 1682 (a)(1), (b), (c)(2), (d)(2), 1683, 1732(a), (b), and 1742 of this title] takes effect February 1, 1970."

EFFECTIVE DATE OF 1965 AMENDMENT

Section 2 of Pub. L. 89-137 provided that: "The foregoing provisions of this Act [amending this section and section 315 of this title] shall become effective on the first day of the second calendar month which begins following the date of enactment of this Act [Aug. 26, 1965]."

SAVINGS PROVISIONS

Section 1(c) of Pub. L. 89-137 provided that: "Any veteran-trainee receiving subsistence allowance on the date of the enactment of this Act [Aug. 26, 1965] while pursuing a course of vocational rehabilitation authorized by chapter 31 of title 38, United States Code, shall not have such allowance reduced by reason of the amendments contained in such Act. [amending this section and section 315 of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1780 of this title.

§ 1505. Leaves of absence

The Administrator shall prescribe such regulations as the Administrator deems necessary for granting leaves of absence to veterans pursuing a course of vocational rehabilitation training. Such leaves of absence shall not be granted to any veteran in excess of thirty days in any consecutive twelve months, except in exceptional circumstances. During authorized leaves of absence, a veteran shall be considered as pursuing the veteran's course of vocational rehabilitation training.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1172; Pub. L. 94-502, title I, § 104(5), Oct. 15, 1976, 90 Stat. 2384.)

AMENDMENTS

1976—Pub. L. 94-502 substituted "the Administrator deems" for "he deems" and "the veteran's" for "his".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

§ 1506. Medical care for trainees

The Administrator may furnish veterans receiving vocational rehabilitation such medical care, treatment, hospitalization, and prosthesis as may be necessary to accomplish the purposes of this chapter, whether or not such medical care, treatment, hospitalization, or prosthesis is otherwise authorized under chapter 17 of this title.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1173.)

§ 1507. Loans to trainees

The revolving fund which was established pursuant to part VII of Veterans Regulation Numbered 1(a) is continued in effect, and may be used by the Administrator, under regulations prescribed by the Administrator, for

making advances, not in excess of $200 in any case, to veterans commencing or undertaking courses of vocational rehabilitation. Such advances, and advances heretofore made, shall bear no interest and shall be repaid in such installments as may be determined by the Administrator, by proper deductions from future payments of subsistence allowance, compensation, pension, or retirement pay.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1173; Pub. L. 92-540, title I, § 101(3), Oct. 24, 1972, 86 Stat. 1074; Pub. L. 94-502, title I, § 104(6), Oct. 15, 1976, 90 Stat. 2384.)

REFERENCES IN TEXT

The revolving fund established pursuant to part VII of Veterans Regulation Numbered 1(a), referred to in text, means the vocational rehabilitation revolving fund established by par. 8 of part VII of Veterans Regulation Numbered 1(a) as added by act Mar. 24, 1943, ch. 22, § 2, 57 Stat. 44, which was set out in chapter 12A of former Title 38, Pensions, Bonuses, and Veterans' Relief.

The appropriation for such fund made by act July 12, 1943, ch. 218, § 1, 57 Stat. 434, was reduced by act June 24, 1954, ch. 359, title I, § 101(part), 68 Stat. 293, and repealed by Pub. L. 85-857, § 14(82), Sept. 2, 1958, 72 Stat. 1272.

Part VII of Veterans Regulation Numbered 1(a) was repealed by section 14(67) of Pub. L. 85-857, effective Jan. 1, 1959, which provided in part, that repeal of that part should not take effect in such manner as to impair the operation of the deferred repeal of a portion of paragraph 9 of the part as provided in section 21 of the Government Employees Training Act, Pub. L. 85-507, July 7, 1958, 72 Stat. 337. For continuation of certain rights and benefits see section 12 of Pub. L. 85-857, set out as a note preceding part I of this title.

AMENDMENTS

1976—Pub. L. 94-502 substituted "prescribed by the Administrator" for "prescribed by him".

1972—Pub. L. 92-540 substituted "$200" for "$100".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-540 effective Oct. 1, 1972, except for those veterans and eligible persons in training on Oct. 24, 1972, see section 601(a) of Pub. L. 92-540, set out as an Effective Date of 1972 Amendment note under section 1502 of this title.

§ 1508. Regulations to promote good conduct

The Administrator shall prescribe such rules and regulations as the Administrator deems necessary in order to promote good conduct and cooperation on the part of veterans who are receiving vocational rehabilitation. Penalties for the breach of such rules and regulations may extend to (1) forfeiture by the offender for three months of subsistence allowance otherwise payable, and (2) permanent disqualification for further vocational rehabilitation.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1173; Pub. L. 94-502, title I, § 104(7), Oct. 15, 1976, 90 Stat. 2384.)

AMENDMENTS

1976—Pub. L. 94-502 substituted "the Administrator deems" for "he deems".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective on Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

§ 1509. Books, supplies, and equipment

(a) Any books, supplies, or equipment furnished a veteran under this chapter shall be deemed released to the veteran, except that if, because of fault on the veteran's part, the veteran fails to complete the course of vocational rehabilitation, the veteran may be required by the Administrator to return any or all of such books, supplies, or equipment not actually expended, or to repay the reasonable value thereof.

(b) Returned books, supplies, and equipment may be turned in to educational or training institutions for credit under such terms as may be approved by the Administrator, or may be disposed of in such other manner as the Administrator may approve.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1173; Pub. L. 94-502, title I, § 104(8), (9), Oct. 15, 1976, 90 Stat. 2384.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502, § 104(8), substituted "the veteran" for "he" and "him" and "the veteran's" for "his".

Subsec. (b). Pub. L. 94-502, § 104(9), substituted "the Administrator may approve" for "he may approve".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

§ 1510. Vocational rehabilitation for hospitalized persons

Vocational rehabilitation may be afforded under this chapter to any person who is hospitalized pending final discharge from the active military, naval, or air service, if such person is qualified for such vocational rehabilitation in every respect except for discharge. No subsistence allowance shall be payable to any person while such person is receiving vocational rehabilitation solely by reason of this section.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1173; Pub. L. 94-502, title I, § 104(10), Oct. 15, 1976, 90 Stat. 2384.)

AMENDMENTS

1976—Pub. L. 94-502 substituted "such person" for "he" wherever appearing.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

§ 1511. Training and training facilities

The Administrator shall prescribe and provide vocational rehabilitation to veterans eligible therefor. For such purpose, the Administrator may—

(1) employ additional personnel and experts, as the Administrator deems necessary;

(2) utilize and extend Veterans' Administration facilities;

(3) utilize facilities of any agency of the United States, or any facilities maintained by joint Federal and State contributions;

(4) provide, by agreement or contract with public or private institutions or establishments, for such additional training facilities as may be suitable and necessary;

(5) cooperate with and employ the facilities of other governmental and State employment agencies for the purpose of placing in gainful employment persons who have received vocational rehabilitation.

Notwithstanding any other provision of law, the facilities of any agency of the United States, as designated in clause (3) of this section, may be used to provide unpaid training or work experience as part or all of a veteran's program of vocational rehabilitation when the Administrator determines such training or work experience to be necessary to accomplish vocational rehabilitation. While pursuing such training or work experience, an uncompensated veteran shall be deemed an employee of the United States for the purposes of the benefits of chapter 81 of title 5 but not for the purposes of laws administered by the Civil Service Commission.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1171, § 1503, renumbered Pub. L. 89-138, § 2(4), Aug. 26, 1965, 79 Stat. 578, and amended Pub. L. 94-502, title I, §§ 103, 104(11), Oct. 15, 1976, 90 Stat. 2384.)

AMENDMENTS

1976—Pub. L. 94-502 substituted "the Administrator" for "he" in cl. (1), and added following cl. (5), provision authorizing the use of facilities of any agency of the United States to be used to provide unpaid training or work experience and designating those uncompensated veterans as employees of the United States for purposes of compensation for work injuries but not for purposes of laws administered by the Civil Service Commission.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 103 of Pub. L. 94-502, providing that facilities of any of the United States be used to provide unpaid training or work experience in a veteran rehabilitation program, effective Dec. 1, 1976, see section 703(c) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

Amendment by section 104(11) of Pub. L. 94-502, substituting "the Administrator deems necessary" for "he deems necessary", effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

CHAPTER 32—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE

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SUBCHAPTER I—PURPOSE; DEFINITIONS

§ 1601. Purpose

It is the purpose of this chapter (1) to provide educational assistance to those men and women who enter the Armed Forces after December 31, 1976, (2) to assist young men and women in obtaining an education they might not otherwise be able to afford, and (3) to promote and assist the all volunteer military program of the United States by attracting qualified men and women to serve in the Armed Forces.

(Added Pub. L. 94-502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2393.)

PRIOR PROVISIONS

A prior section 1601, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1174, which defined "basic service period", "eligible veteran", "program of education or training", "course", "dependent", "educational institutions", "training establishments", "State", and "Commissioner", made benefits unavailable to individuals serving as commissioned officers of Coast and Geodetic Survey or of Regular or Reserve Corps of the Public Health Service unless the service qualified those individuals for benefits under title II of the Veteran's Readjustment Assistance Act of 1952, and declared Congressional policy, was repealed by Pub. L. 89-358, § 4(a), Mar. 3, 1966, 80 Stat. 23. See provisions of the Veterans' Readjustment Benefits Act of 1966 classified to sections 1651(3), (4) and 1652(a)(1), (3)(A), (B), (b) to (d) of this title.

EFFECTIVE DATE

Section 406 of Pub. L. 94-502 provided that: "The provisions of this title [enacting this chapter, amending sections 1652, 1661, and 1662 of this title, and section 725s, of Title 31, Money and Finance, and enacting a provision set out as a note under section 1621 of this title] shall become effective on January 1, 1977."

SHORT TITLE

For Short Title of Pub. L. 94-502, Oct. 15, 1976, 90 Stat. 2383, which enacted this chapter, see Short Title of 1976 Amendments note set out under section 101 of this title.

§ 1602. Definitions

For the purposes of this chapter—

(1)(A) The term "eligible veteran" means any veteran who (i) initially entered military service on or after January 1, 1977, served on active duty for a period of more than 180 days commencing on or after such date, and was discharged or released therefrom under conditions other than dishonorable, or (ii) initially entered military service on or after January 1, 1977, and was discharged or released from active duty after such date for a service-connected disability.

(B) The requirement of discharge or release, prescribed in subparagraph (A), shall be waived

[1] So in original. Does not conform to section catchline.

in the case of any participant who has completed his or her first obligated period of active duty (which began after December 31, 1976) or 6 years of active duty (which began after December 31, 1976), whichever period is less.

(C) For the purposes of subparagraphs (A) and (B), the term "active duty" does not include any period during which an individual (i) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (ii) served as a cadet or midshipman at one of the service academies, or (iii) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

(2) The terms "program of education" and "educational institution" shall have the same meaning ascribed to them in sections 1652(b) and 1652(c), respectively, of this title.

(3) The term "participant" is a person who is participating in the educational benefits program established under this chapter.

(Added Pub. L. 94–502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2394.)

PRIOR PROVISIONS

A prior section 1610, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1176, which provided for entitlement to education or training generally, was repealed by Pub. L. 89–358, § 4(a), Mar. 3, 1966, 80 Stat. 23. See provisions of the Veterans' Readjustment Benefits Act of 1966 classified to section 1661(a) of this title.

A prior section 1611, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1176, which related to duration of veteran's education or training, was repealed by Pub. L. 89–358, § 4(a), Mar. 3, 1966, 80 Stat. 23. See provisions of the Veterans' Readjustment Benefits Act of 1966 classified to sections 1652(a)(3)(A), (B), 1661(a), (b)(1), (3), (4), (c), and 1682(c)(2) of this title.

A prior section 1612, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1176, which related to commencement of education and time limitations, was repealed by Pub. L. 89–358, § 4(a), Mar. 3, 1966, 80 Stat. 23. See provisions of the Veterans' Readjustment Benefits Act of 1966 classified to section 1662 of this title.

A prior section 1613, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1177; Pub. L. 87–815, § 1, Oct. 15, 1962, 76 Stat. 926, which provided for expiration of all education and training, was repealed by Pub. L. 89–358, § 4(a), Mar. 3, 1966, 80 Stat. 23. See provisions of the Veterans' Readjustment Benefits Act of 1966 classified to section 1662(a) of this title.

A prior section 1620, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1177, related to selections of program, was repealed by Pub. L. 89–358, § 4(a), Mar. 3, 1966, 80 Stat. 23. See provisions of the Veterans' Readjustment Benefits Act of 1966 classified to sections 1670 and 1676 of this title.

SUBCHAPTER II—ELIGIBILITY; CONTRIBUTIONS; AND MATCHING FUND

§ 1621. Eligibility

(a) Each person entering military service on or after January 1, 1977, shall have the right to enroll in the educational benefits program provided by this chapter (hereinafter in this chapter referred to as the "program" except where the text indicates otherwise) at any time during such person's service on active duty. When a person elects to enroll in the program, such person must participate for at least 12 consecutive months before disenrolling or suspending participation.

(b) The requirement for 12 consecutive months of participation required by subsection (a) of this section shall not apply when (1) the participant suspends participation or disenrolls from the program because of personal hardship as defined in regulations issued jointly by the Administrator and the Secretary of Defense (hereinafter in this chapter referred to as the "Secretary"), or (2) the participant is discharged or released from active duty.

(c) A participant shall be permitted to suspend participation or disenroll from the program at the end of any 12-consecutive-month period of participation. If participation is suspended, the participant shall be eligible to make additional contributions to the program under such terms and conditions as shall be prescribed by regulations issued jointly by the Administrator and the Secretary.

(d) If a participant disenrolls from the program, such participant forfeits any entitlement to benefits under the program except as provided in subsection (e) of this section. A participant who disenrolls from the program is eligible for a refund of such participant's contributions as provided in section 1623 of this title.

(e) A participant who has disenrolled may be permitted to reenroll in the program under such conditions as shall be prescribed jointly by the Administrator and the Secretary.

(Added Pub. L. 94–502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2394.)

PRIOR PROVISIONS

A prior section 1621, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1177, which provided for applications and approval of applications, was repealed by Pub. L. 89–358, § 4(a), Mar. 3, 1966, 80 Stat. 23. See provisions of the Veterans' Readjustment Benefits Act of 1966 classified to section 1671 of this title.

NEW ENROLLMENTS IN EDUCATIONAL ASSISTANCE PROGRAM AFTER DECEMBER 31, 1981, PRESIDENTIAL RECOMMENDATION TO CONGRESS

Section 408 of Pub. L. 94–502 provided that:

"(a)(1) No individual on active duty in the Armed Forces may initially enroll in the educational assistance program provided for in chapter 32 of title 38, United States Code (as added by section 404 of this Act) after December 31, 1981, unless—

"(A) before June 1, 1981, the President submits to both Houses of Congress a written recommendation that such program continue to be open for new enrollments; and

"(B) before the close of the 60-day period after the day on which the President submits to Congress the recommendation described in subparagraph (A), neither the House of Representatives nor the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution which in substance disapproves such recommendation.

"(2) For purposes of computing the 60-day period referred to in paragraph (1)(B), there shall be excluded—

"(A) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

"(B) any Saturday and Sunday, not excluded under the preceding subparagraph, when either House is not in session.

The recommendation referred to in paragraph (1)(A) shall be delivered to both Houses of Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House is not in session and to the Secretary of the Senate if the Senate is not in session.

"(b) If new enrollments after December 31, 1981, in the educational assistance program provided for in such chapter 32 are authorized after the application of the provisions of subsection (a), then effective January 1, 1982, section 1622(b) of title 38, United States Code, is amended by striking out 'Veterans' Administration' and inserting in lieu thereof 'Department of Defense'."

§ 1622. Contributions; matching fund

(a) Each person electing to participate in the program shall agree to have a monthly deduction made from such person's military pay. Such monthly deduction shall be in any amount not less than $50 nor more than $75 except that the amount must be divisible by 5. Any such amount contributed by the participant or contributed by the Secretary pursuant to subsection (c) of this section shall be deposited in a deposit fund account entitled the "Post-Vietnam Era Veterans Education Account" (hereinafter in this chapter referred to as the "fund") to be established in the Treasury of the United States. Contributions made by the participant shall be limited to a maximum of $2,700.

(b) Except as otherwise provided in this chapter, each monthly contribution made by a participant under subsection (a) shall entitle the participant to matching funds from the Veterans' Administration at the rate of $2 for each $1 contributed by the participant.

(c) The Secretary is authorized to contribute to the fund of any participant such contributions as the Secretary deems necessary or appropriate to encourage persons to enter or remain in the Armed Forces. The Secretary is authorized to issue such rules and regulations as the Secretary deems necessary or appropriate to implement the provisions of this subsection.

(Added Pub. L. 94–502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2395.)

Prior Provisions

A prior section 1622, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1178; Pub. L. 86–150, Aug. 11, 1959, 73 Stat. 332, which related to change of program, was repealed by Pub. L. 89–358, § 4(a), Mar. 3, 1966, 80 Stat. 23. See provisions of the Veterans' Readjustment Benefits Act of 1966 classified to section 1672 of this title.

Matching Funds From Department of Defense After January 1, 1982, If New Enrollments Are Authorized After December 31, 1981

For provisions of section 408(b) of Pub. L. 94-502 directing that "Department of Defense" be substituted for "Veterans' Administration" in subsec. (b) of this section, effective Jan. 1, 1982, if new enrollments after Dec. 31, 1981, in the educational assistance program provided by this chapter are authorized after application of section 408(a) of Pub. L. 94–502, see section 408 of Pub. L. 94–502, set out as a note under section 1621 of this title.

Section Referred to in Other Sections

This section is referred to in sections 1623, 1643 of this title.

§ 1623. Refunds of contributions upon disenrollment

(a) Contributions made to the program by a participant may be refunded only after the participant has disenrolled from the program or as provided in section 1624.

(b) If a participant disenrolls from the program prior to discharge or release from active duty, such participant's contributions will be refunded on the date of the participant's discharge or release from active duty or within 60 days of receipt of notice by the Administrator of the participant's discharge or disenrollment, except that refunds may be made earlier in instances of hardship or other good reason as prescribed in regulations issued jointly by the Administrator and the Secretary.

(c) If a participant disenrolls from the program after discharge or release from active duty, the participant's contributions shall be refunded within 60 days of receipt of an application for a refund from the participant.

(d) In the event the participant (1) dies while on active duty, (2) dies after discharge or release from active duty, or (3) disenrolls or is disenrolled from the program without having utilized any entitlement, the participant may have accrued under the program, or, in the event the participant utilizes part of such participant's entitlement and disenrolls or is disenrolled from the program, the amount contributed by the Secretary under the authority of section 1622(c) remaining in the fund shall be refunded to the Secretary.

(Added Pub. L. 94–502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2395.)

Prior Provisions

A prior section 1623, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1178, which provided for disapproval of enrollment in certain courses, was repealed by Pub. L. 89–358, § 4(a), Mar. 3, 1966, 80 Stat. 23. See provisions of the Veterans' Readjustment Benefits Act of 1966 classified to sections 1673(a) and (d) of this title.

Section Referred to in Other Sections

This section is referred to in section 1621 of this title.

§ 1624. Death of participant

(a) If a participant dies, the amount of such participant's unused contributions to the fund shall be paid (1) to the beneficiary or beneficiaries designated by such participant under such participant's Servicemen's Group Life Insurance policy, or (2) to the participant's estate if no beneficiary has been designated under such policy or if the participant is not insured under the Servicemen's Group Life Insurance program.

(b) If a participant dies after having been discharged or released from active duty and before using any or all of the contributions which the participant made to the fund, such unused contributions shall be paid as prescribed in subsection (a) of this section.

(Added Pub. L. 94–502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2395.)

Prior Provisions

A prior section 1624, Pub. L. 85–857, Sept. 2, 1966, 72 Stat. 1178, which provided discontinuance for unsatisfactory progress, was repealed by Pub. L. 89–358,

§ 4(a), Mar. 3, 1966, 80 Stat. 23. See provisions of the Veterans' Readjustment Benefits Act of 1966 classified to section 1674 of this title.

§ 1625. Discharge or release under conditions which would bar the use of benefits

If a participant in the program is discharged or released from active duty under dishonorable conditions, such participant is automatically disenrolled and any contributions made by such participant shall be refunded to such participant on the date of such participant's discharge or release from active duty or within 60 days from receipt of notice by the Administrator of such discharge or release, whichever is later.

(Added Pub. L. 94-502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2396.)

PRIOR PROVISIONS

A prior section 1625, Pub. L. 85-857, Sept. 2, 1966, 72 Stat. 1179, which provided for a period of operation for approval, was repealed by Pub. L. 89-358, § 4(a), Mar. 3, 1966, 80 Stat. 23. See provisions of the Veterans' Readjustment Benefits Act of 1966 classified to section 1675 of this title.

A prior section 1626, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1179, which related to institutions listed by Attorney General, was repealed by Pub. L. 89-358, § 4(a), Mar. 3, 1966, 80 Stat. 23. See provisions of the Veterans' Readjustment Benefits Act of 1966 classified to section 1789 of this title.

SUBCHAPTER III—ENTITLEMENT; DURATION

§ 1631. Entitlement; loan eligibility

(a)(1) A participant shall be entitled to a maximum of 36 monthly benefit payments (or their equivalent in the event of parttime benefit payments).

(2) The amount of the monthly payment to which any eligible veteran is entitled shall be ascertained by (A) adding all contributions made to the fund by the eligible veteran, (B) multiplying the sum by 3, (C) adding all contributions made to the fund for such veteran by the Secretary, and (D) dividing the sum by the lesser of 36 or the number of months in which contributions were made by such veteran.

(3) Payment of benefits under this chapter may be made only for periods of time during which an eligible veteran is actually enrolled in and pursuing an approved program of education and, except as provided in paragraph (4), only after an eligible veteran has been discharged or released from active duty.

(4) Payment of benefits under this chapter may be made after a participant has completed his or her first obligated period of active duty (which began after December 31, 1976), or 6 years of active duty (which began after December 31, 1976), whichever period is less.

(b) Any enlisted member of the Armed Forces participating in the program shall be eligible to participate in the Predischarge Education Program (PREP), authorized by subchapter VI of chapter 34 of this title, during the last 6 months of such member's first enlistment.

(c) When an eligible veteran is pursuing either a program of education under this chapter by correspondence or a program of flight training, such eligible veteran's entitlement shall be charged at the rate of 1 month's entitlement for each month of benefits paid to the eligible veteran (computed on the basis of the formula provided in subsection (a)(2) of this section).

(d) Eligible veterans participating in the program shall be eligible for education loans authorized by subchapter III of chapter 36 of this title in such amounts and on the same terms and conditions as provided in such subchapter, except that the term "eligible veteran" as used in such subchapter shall be deemed to include "eligible veteran" as defined in this chapter.

(Added Pub. L. 94-502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2396.)

PRIOR PROVISIONS

A prior section 1631, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1179, which provided for education and training allowance, was repealed by Pub. L. 89-358, § 4(a), Mar. 3, 1966, 80 Stat. 23. See provisions of the Veterans' Readjustment Benefits Act of 1966 classified to section 1681(a), (b), (d), and (e) of this title.

SECTION REFERRED TO IN OTHER SECTION

This section is referred to in section 1696 of this title.

§ 1632. Duration; limitations

No educational assistance benefits shall be afforded an eligible veteran under this chapter beyond the date of 10 years after such veteran's last discharge or release from active duty. In the event an eligible veteran has not utilized any or all of such veterans' entitlement by the end of the 10-year period, such eligible veteran is automatically disenrolled and any contributions made by such veteran remaining in the fund shall be refunded to the veteran following notice to the veteran and an application by the veteran for such refund. If no application is received within 1 year from date of notice, it will be presumed for the purposes of subsection (a) of section 725s of title 31, that the individual's whereabouts is unknown and the funds shall be transferred as directed in the last proviso of that subsection.

(Added Pub. L. 94-502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2396.)

PRIOR PROVISIONS

A prior section 1632, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1180, which provided for computation of education and training allowances for institutional courses, apprentice and on-the-job training, on-farm training, correspondence and flight training courses, and less-than-half time basis courses, was repealed by Pub. L. 89-358, § 4(a), Mar. 3, 1966, 80 Stat. 23. See provisions of the Veterans' Readjustment Benefits Act of 1966 classified to sections 1682(a), (b)(2), (c)(1) and 1781 of this title.

A prior section 1633, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1182, which related to measurement of courses, was repealed by Pub. L. 89-358, § 4(a), Mar. 3, 1966, 80 Stat. 23.

A prior section 1634, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1182, which related to overcharges by educational institutions, was repealed by Pub. L. 89-358, § 4(a), Mar. 3, 1966, 80 Stat. 23.

SUBCHAPTER IV—ADMINISTRATION

§ 1641. Requirements

The provisions of sections 1670, 1671, 1673, 1674, 1676, 1677, 1681(c), 1683, 1696, and 1698 of this title and the provisions of chapter 36 of this title, with the exception of sections 1777, 1780(c), and 1787, shall be applicable to the program.

(Added Pub. L. 94-502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2397.)

PRIOR PROVISIONS

A prior section 1641, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1182, which related to designation of State approving agencies, was repealed by Pub. L. 89-358, § 4(a), Mar. 3, 1966, 80 Stat. 23. See provisions of the Veterans' Readjustment Benefits Act of 1966 classified to section 1771 of this title.

§ 1642. Reporting requirements

The Administrator and the Secretary shall, within 90 days after the date of enactment of this chapter, submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a joint report containing their respective plans for implementation of the program provided for in this chapter. The Administrator and the Secretary shall submit to such committees a report each year detailing the operations of the program during the preceding year. The first such annual report shall be submitted 15 months after the date of enactment of this section.

(Added Pub. L. 94-502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2397.)

REFERENCES IN TEXT

The date of enactment of this chapter and the date of enactment of this section, referred to in text, mean the date of enactment of title IV of Pub. L. 94-502 and section 404 of Pub. L. 94-502, which are Oct. 15, 1976.

PRIOR PROVISIONS

A prior section 1642, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1183, which related to approval of courses, was repealed by Pub. L. 89-358, § 4(a), Mar. 3, 1966, 80 Stat. 1183. See provisions of the Veterans' Readjustment Benefits Act of 1966 classified to section 1772 of this title.

§ 1643. Deposits; reports

Deductions made by the Department of Defense from the military pay of any participant shall be promptly transferred to the Administrator for deposit in the fund. The Secretary shall also submit to the Administrator a report each month showing the name, service number, and the amount of the deduction made from the military pay of each initial enrollee, any contribution made by the Secretary pursuant to section 1622(c), as well as any changes in each participant's enrollment and/or contribution. The report shall also include any additional information the Administrator and the Secretary deem necessary to administer this program. The Administrator shall maintain accounts showing contributions made to the fund by individual participants and by the Secretary as well as disbursements made from the fund in the form of benefits.

(Added Pub. L. 94-502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2397.)

PRIOR PROVISIONS

A prior section 1643, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1183; Pub. L. 88-361, § 7, July 7, 1964, 78 Stat. 298, which provided for cooperation between the Administrator and the State approving agencies, was repealed by Pub. L. 89-358, § 4(a), Mar. 3, 1966, 80 Stat. 23. See provisions of the Veterans' Readjustment Benefits Act of 1966 classified to section 1773 of this title.

A prior section 1644, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1183, which provided for use of Office of Education and other Federal agencies, was repealed by Pub. L. 89-358, § 4(a), Mar. 3, 1966, 80 Stat. 23. See provisions of the Veterans Readjusment Benefits Act of 1966 classified to section 1790 of this title.

A prior section 1645, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1183, which provided for reimbursement of expenses, was repealed by Pub. L. 89-358, § 4(a), Mar. 3, 1966, 80 Stat. 23. See provisions of the Veterans' Readjustment Benefits Act of 1966 classified to section 1774 of this title.

CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE

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AMENDMENTS

1976—Pub. L. 94-502, title II, § 210(4), Oct. 15, 1976, 90 Stat. 2388, renumbered former item 1697A as item 1698.

1974—Pub. L. 93-508, title III, § 302(b), Dec. 3, 1974, 88 Stat. 1591, added item 1686.

1972—Pub. L. 92-540, title IV, § 404(a), Oct. 24, 1972, 86 Stat. 1090, added in Subchapter IV heading "Veteran-Student Services", and substituted in item 1683 "Approval of courses" for "Apprenticeship or other on-job training"; in item 1684 "Apprenticeship or other on-job training; correspondence courses" for "Measurement of courses", and in item 1685 "Veteran-student services" for "Overcharges by educational institutions", struck out item 1672 "Change of program", item 1675 "Period of operation for approval", item 1686 "Approval of courses", and item 1687 "Discontinuance of allowances", and added item 1697A.

1970—Pub. L. 91-219, title II, § 204(b), Mar. 26, 1970, 84 Stat. 81, struck out item 1678 "Special training for the educationally disadvantaged" and added subchapters V and VI.

1967—Pub. L. 90-77, title III, §§ 302(c), 304(b), 306(b)(1), Aug. 31, 1967, 81 Stat. 185, 186, 188, added items 1677, 1678, and 1683, and renumbered former items 1683 to 1686 as 1684 to 1687, respectively.

1966—Pub. L. 89-358, § 2, Mar. 3, 1966, 80 Stat. 12, added "Chapter 34—Veterans' Educational Assistance".

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 101, 111, 243, 618, 1502, 1685, 1698, 1770, 1771, 1772, 1773, 1774, 1780, 1781, 1782, 1783, 1784, 1785, 1787, 1788, 1789, 1790, 1792, 1793, 1794, 1795, 1796, 2013, 3013, 3107, 4114 of this title; title 20 section 1070e-1; title 29 section 981.

SUBCHAPTER I—PURPOSE—DEFINITIONS

§ 1651. Purpose

The Congress of the United States hereby declares that the education program created by this chapter is for the purpose of (1) enhancing and making more attractive service in the Armed Forces of the United States, (2) extending the benefits of a higher education to qualified and deserving young persons who might not otherwise be able to afford such an education, (3) providing vocational readjustment and restoring lost educational opportunities to those service men and women whose careers have been interrupted or impeded by reason of active duty after January 31, 1955, and (4) aiding such persons in attaining the vocational and educational status which they might normally have aspired to and obtained had they not served their country.

(Added Pub. L. 89-358, § 2, Mar. 3, 1966, 80 Stat. 12.)

PRIOR PROVISIONS

Provisions similar to those comprising clauses (3) and (4) of this section were contained in Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1175 (classified to section 1601(c) of this title) prior to repeal thereof by section 4(a) of Pub. L. 89-358.

A prior section 1651, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1184, of former chapter 33, Education of Korean Conflict Veterans, which provided for apprentice or other training on the job, was repealed by section 4(a) of Pub. L. 89-358.

EFFECTIVE DATE

Section 12(a) of Pub. L. 89-358 provided that: "Except as otherwise specifically provided, the provisions of this Act [see Short Title of 1966 Amendment note set out under section 101 of this title] shall take effect on the date of its enactment [Mar. 3, 1966], but no educational assistance allowance shall be payable under chapter 34 of title 38, United States Code, as added by section 2 of this Act, for any period before June 1, 1966, nor for the month of June 1966, unless (1) the eligible veteran commenced the pursuit of the course of education on or after June 1, 1966, or (2) the pursuit of such course continued through June 30, 1966."

SAVINGS PROVISIONS

Section 4(b) of Pub. L. 89-358 provided that: "Nothing in this Act or any amendment or repeal made by it [see Short Title of 1966 Amendment note set out under section 101 of this title], shall affect any right or liability (civil or criminal) which matured under chapter 33 of this title 38 [sections 1601 to 1669 of this title] before the date of enactment of this Act [Mar. 3, 1966]: and all offenses committed, and all penalties and forfeitures incurred, under any provision of law amended or repealed by this Act [see Short Title of 1966 Amendment note set out under section 101 of this title], may be punished or recovered, as the case may be, in the same manner and with the same effect as if such amendments or repeals had not been made."

§ 1652. Definitions

For the purposes of this chapter—

(a)(1) The term "eligible veteran" means any veteran who—

(A) served on active duty for a period of more than 180 days, any part of which occurred after January 31, 1955, and before January 1, 1977, and was discharged or released therefrom under conditions other than dishonorable; or

(B) contracted with the Armed Forces and was enlisted in or assigned to a reserve component prior to January 1, 1977, and as a result of such enlistment or assignment served on active duty for a period of more than 180 days, any part of which commenced within 12 months after January 1, 1977, and was discharged or released from such active duty under conditions other than dishonorable; or

(C) was discharged or released from active duty, any part of which was performed after January 31, 1955, and before January 1, 1977, or following entrance into active service from an enlistment provided for under clause (B) of this paragraph, because of a service-connected disability.

(2) The requirement of discharge or release, prescribed in paragraph (1)(A) or (B), shall be waived in the case of any individual who served more than one hundred and eighty days in an active-duty status for so long as such individual continues on active duty without a break therein.

(3) For purposes of paragraph (1)(A) and section 1661(a), the term "active duty" does not include any period during which an individual (A) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (B) served as a cadet or midshipman at one of the service academies, or (C) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard

Reserve unless at some time subsequent to the completion of such period of active duty for training such individual served on active duty for a consecutive period of one year or more (not including any service as a cadet or midshipman at one of the service academies).

(b) The term "program of education" means any curriculum or any combination of unit courses or subjects pursued at an educational institution which is generally accepted as necessary to fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective. Such term also means any curriculum of unit courses or subjects pursued at an educational institution which fulfill requirements for the attainment of more than one predetermined and identified educational, professional, or vocational objective if all the objectives pursued are generally recognized as being reasonably related to a single career field. Such term also means any unit course or subject, or combination of courses or subjects, pursued by an eligible veteran at an educational institution required by the Administrator of the Small Business Administration as a condition to obtaining financial assistance under the provisions of 402(a) of the Economic Opportunity Actof 1964 (42 U.S.C. 2902(a)).

(c) The term "educational institution" means any public or private elementary school, secondary school, vocational school, correspondence school, business school, junior college, teachers' college, college, normal school, professional school, university, or scientific or technical institution, or other institution furnishing education for adults.

(d) The term "dependent" means—

(1) a child of an eligible veteran;

(2) a dependent parent of an eligible veteran; and

(3) the spouse of an eligible veteran.

(e) For the purposes of this chapter and chapter 36 of this title, the term "training establishment" means any establishment providing apprentice or other training on the job, including those under the supervision of a college or university or any State department of education, or any State apprenticeship agency, or any State board or vocational education, or any joint apprenticeship committee, or the Bureau of Apprenticeship and Training established pursuant to chapter 4C of title 29, or any agency of the Federal Government authorized to supervise such training.

(f) For the purposes of this chapter and chapter 36 of this title, the term "institution of higher learning" means a college, university, or similar institution, including a technical or business school, offering postsecondary level academic instruction that leads to an associate or higher degree if the school is empowered by the appropriate State education authority under State law to grant an associate or higher degree. When there is no State law to authorize the granting of a degree, the school may be recognized as an institution of higher learning if it is accredited for degree programs by a recognized accrediting agency. Such term shall also include a hospital offering educational programs at the postsecondary level without regard to whether the hospital grants a postsecondary degree.

(g) For the purposes of this chapter and chapter 36 of this title, the term "standard college degree" means an associate or higher degree awarded by (1) an institution of higher learning that is accredited as a collegiate institution by a recognized regional or national accrediting agency; or (2) an institution of higher learning that is a "candidate" for accreditation as that term is used by the regional or national accrediting agencies; or (3) an institution of higher learning upon completion of a course which is accredited by an agency recognized to accredit specialized degree-level programs. For the purpose of this section, the accrediting agency must be one recognized by the Commissioner of Education under the provisions of section 1775 of this title.

(Added Pub. L. 89-358, § 2, Mar. 3, 1966, 80 Stat. 13, and amended Pub. L. 90-77, title III, § 304(c), Aug. 31, 1967, 81 Stat. 186; Pub. L. 91-219, title II, § 201, Mar. 26, 1970, 84 Stat. 78; Pub. L. 91-584, § 10, Dec. 24, 1970, 84 Stat. 1577; Pub. L. 93-508, title II, § 201, Dec. 3, 1974, 88 Stat. 1581; Pub. L. 94-502, title II, §§ 202, 210(1), 211(1), title IV, § 402, Oct. 15, 1976, 90 Stat. 2385, 2388, 2392.)

REFERENCES IN TEXT

Section 402(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2902(a)), referred to in subsec. (b), probably means section 402(a) of Pub. L. 88-452, title IV, Aug. 20, 1964, 78 Stat. 526, as amended, which enacted section 2902 of Title 42, The Public Health and Welfare, and which was repealed by Pub. L. 93-386, § 2(b), Aug. 23, 1974, 88 Stat. 745.

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a) to (d) of this section were contained in Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1174, 1176, which was classified to sections 1601(a)(2) and 1611(a)(1), and 1601(a)(3), (6), and (5) of this title, respectively, prior to repeal thereof by section 4(a) of Pub. L. 89-358.

A prior section 1652, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1185, of former chapter 33, Education of Korean Conflict Veterans, which provided for institutional on-farm training for Korean Conflict Veterans was repealed by section 4(a) of Pub. L. 89-358.

A prior section 1653, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1186, of former chapter 33, Education of Korean Conflict Veterans, which provided for approval of accredited courses for Korean conflict veterans, was repealed by section 4(a) of Pub. L. 89-358, and is now covered by section 1775 of this title.

A prior section 1654, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1187, of former chapter 33, Education of Korean Conflict Veterans, which provided for approval of nonaccredited courses for Korean conflict veterans, was repealed by section 4(a) of Pub. L. 89-358, and is now covered by section 1776 of this title.

A prior section 1655, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1189, of former chapter 33, Education of Korean Conflict Veterans, which provided for notice of approval of courses for Korean conflict veterans, was repealed by section 4(a) of Pub. L. 89-358, and is now covered by section 1777 of this title.

A prior section 1656, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1189, of former chapter 33, Education of Korean Conflict Veterans, which provided for disapproval of courses and discontinuance of allowances for Korean conflict Veterans, was repealed by section 4(a) of Pub. L. 89-358, and is now covered by sections 1686 and 1778 of this title.

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-502, § 402(1), restricted the definition of an eligible veteran to a veteran who commenced his active duty requirement after Jan. 31, 1955 but before Jan. 1, 1977, with the exception of a veteran who enlisted or was assigned to a reserve component before Jan. 1, 1977 and commenced his active duty requirement within 12 months following Jan. 1, 1977.

Subsec. (a)(2). Pub. L. 94-502, §§ 211(1), 402(2), substituted "such individual" for "he" and inserted "or (B)" following "paragraph (1)(A)".

Subsec. (d)(3). Pub. L. 94-502, § 211(1), substituted "spouse" for "wife".

Subsec. (e). Pub. L. 94-502, § 210(1), struck out "United States Code," following "chapter 4C of title 29,".

Subsecs. (f), (g). Pub. L. 94-502, § 202, added subsecs. (f) and (g).

1974—Subsec. (a)(3). Pub. L. 93-508 substituted "Coast Guard Reserve unless at some time subsequent to the completion of such period of active duty for training such individual served on active duty for a consecutive period of one year or more (not including any service as a cadet or midshipman at one of the service academies)" for "Coast Guard Reserve".

1970—Subsec. (a)(2). Pub. L. 91-584, § 10(1), substituted "more than one hundred eighty days" for "at least two years".

Subsec. (b). Pub. L. 91-584, § 10(2), expanded the definition of "program of education" to include unit course or subject, or combination of courses or subjects, pursued by eligible veterans at an educational institution, required by the Administrator of the Small Business Administration as a condition to obtaining financial assistance under section 2902(a) of Title 42, Public Health and Welfare.

Pub. L. 91-219, § 201(a), provided that a program of education may include more than one predetermined and identified educational, professional, or vocational objective if all the objectives pursued are generally recognized as being reasonably related to single career field.

Subsec. (c). Pub. L. 91-219, § 201(b), included within the term "educational institution" any public or private "elementary" school, and substituted "other institution furnishing education for adults", for "any other institution if it furnishes education at the secondary school level or above".

1967—Subsec. (e). Pub. L. 90-77 added subsec. (e).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 402 of Pub. L. 94-502 effective Jan. 1, 1977, see section 406 of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1601 of this title.

Amendment by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 503 of Pub. L. 93-508 provided that: "Titles II and IV of this Act [enacting sections 219, 220, 243, 1796, 2014, 2021 to 2026 of this title, and amending sections 241, 242, 244, 1652, 1661, 1673, 1682, 1685, 1692, 1723, 1732, 1774, 1780, 1784, 1788, 2001 to 2003, 2005 to 2007, and 2012 of this title, and section 459 of the Appendix to Title 50, War and National Defense] shall become effective on the date of their enactment [Dec. 3, 1974]."

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 243, 1661, 1786, 1787, 2014 of this title.

SUBCHAPTER II—ELIGIBILITY AND ENTITLEMENT

§ 1661. Eligibility; entitlement; duration

Entitlement

(a) Except as provided in subsection (c) and in the second sentence of this subsection, each eligible veteran shall be entitled to educational assistance under this chapter or chapter 36 for a period of one and one-half months (or the equivalent thereof in part-time educational assistance) for each month or fraction thereof of the veteran's service on active duty after January 31, 1955. If an eligible veteran has served a period of 18 months or more on active duty after January 31, 1955, and has been released from such service under conditions that would satisfy the veteran's active duty obligations, the veteran's shall be entitled to educational assistance under this chapter for a period of 45 months (or the equivalent thereof in part-time educational assistance). In the case of any person serving on active duty on December 31, 1976, or a person whose eligibility is based on section 1652(a)(1)(B) of this chapter, the ending date for computing such person's entitlement shall be the date of such person's first discharge or release from active duty after December 31, 1976.

Entitlement Limitations

(b) Whenever the period of entitlement under this section of an eligible veteran who is enrolled in an educational institution regularly operated on the quarter or semester system ends during a quarter or semester, such period shall be extended to the termination of such unexpired quarter or semester. In educational institutions not operated on the quarter or semester system, whenever the period of eligibility ends after a major portion of the course is completed such period shall be extended to the end of the course or for twelve weeks, whichever is the lesser period.

(c) Except as provided in subsection (b) and in subchapters V and VI of this chapter, no eligible veteran shall receive educational assistance under this chapter in excess of 45 months.

(Added Pub. L. 89-358, § 2, Mar. 3, 1966, 80 Stat. 13, and amended Pub. L. 90-77, title III, § 306(b)(2), Aug. 31, 1967, 81 Stat. 188; Pub. L. 90-631, § 1(b), Oct. 23, 1968, 82 Stat. 1331; Pub. L. 91-219, title II, § 204(a)(1), Mar. 26, 1970, 84 Stat. 79; Pub. L. 92-540, title IV, § 401(1), Oct. 24, 1972, 86 Stat. 1089; Pub. L. 93-508, title II, § 202, Dec. 3, 1974, 88 Stat. 1581; Pub. L. 94-502, title II, §§ 203, 211(2), title IV, § 403(a), Oct. 15, 1976, 90 Stat. 2386, 2388, 2393.)

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a) to (c) of this section were contained in Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1176 (classified to sections 1610 and 1611(a), 1611(a)(2), (3), and 1611(b) of this title, respectively) prior to repeal thereof by section 4(a) of Pub. L. 89-358.

A prior section 1661, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1190, of former chapter 33, Education of Korean

Conflict Veterans, which related to authority and duties of Administrator concerning education of Korean conflict veterans was repealed by section 4(a) of Pub. L. 89-358, and is now covered by section 1663 of this title.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502, §§ 203(1), 211(2), 403(a), substituted "45 months" for "36 months", "the veteran's" for "his" in two places, and "the veteran" for "he", added provision establishing the final date of entitlement for person serving on active duty on Dec. 31, 1976 or whose eligibility is based on section 1652(a)(1)(B) of this title as the date of discharge or release from active duty after Dec. 31, 1976, and struck out provision which authorized an additional number of months not exceeding nine to be used for a program leading to a standard undergraduate degree.

Subsec. (c). Pub. L. 94-502, § 203(2), substituted "subsection (b)" for "subsections (a) and (b)" and "45 months" for "thirty-six months".

1974—Subsec. (a). Pub. L. 93-508, § 202(1), added "plus an additional number of months, not exceeding nine, as may be utilized in pursuit of a program of education leading to a standard undergraduate college degree" at end of subsection.

Subsec. (c). Pub. L. 93-508, § 202(2), added reference to subsec. (a).

1972—Subsec. (a). Pub. L. 92-540 added reference to chapter 36.

1970—Subsec. (c). Pub. L. 91-219 substituted "subchapters V and VI of this chapter" for "section 1678 of this title".

1968—Subsec. (a). Pub. L. 90-631, § 1(b)(1), substituted references to subsec. (c) and the second sentence of this subsec. for reference to subsec. (b), increased from one month to one and one-half months the amount of educational assistance each eligible veteran shall receive for each month or fraction thereof of active duty service after Jan. 31, 1955, and added provisions that an eligible veteran who has served 18 months or more on active duty after Jan. 31, 1955, and has been released under conditions that would satisfy his active duty obligation, shall be entitled to educational assistance under this chapter for a period of 36 months.

Subsec. (b). Pub. L. 90-631, § 1(b)(2), (3), redesignated former subsec. (c) as (b). Former subsec. (b), which set forth entitlement limitations on the amount of educational assistance an eligible veteran, shall receive under this chapter, was struck out.

Subsec. (c). Pub. L. 90-631, § 1(b), (3), (4), added subsec. (c). Former provisions of subsec. (c) were redesignated as (b).

Subsec. (d). Pub. L. 90-631, § 1(b)(2), struck out subsec. (d) which required an eligible veteran to elect either educational assistance or vocational rehabilitation when such veteran is entitled to both, or becomes entitled to vocational rehabilitation after receiving educational assistance.

1967—Subsec. (b). Pub. L. 90-77 inserted "and in section 1678 of this chapter" following "subsection (c)".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 403(a) of Pub. L. 94-502, effective Jan. 1, 1977, see section 406 of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1601 of this title.

Amendment of subsec. (a) by section 203(1) of Pub. L. 94-502, substituting "45 months" for "36 months", effective Oct. 1, 1976, see section 703(a) of 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

Amendment of subsec. (a) by section 211(2) of Pub. L. 94-502, substituting "the veteran's" for "his" in two places and "the veteran" for "he", effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

Amendment of subsec. (c) by section 203(2) of Pub. L. 94-502 effective Oct. 1, 1976, see section 703(a) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-631 effective on the first day of the second calendar month which begins after Oct. 23, 1968, see section 6(a) of Pub. L. 90-631, set out as an Effective Date of 1968 Amendment note under section 1502 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1652, 1682, 1693, 1696, 1798 of this title.

§ 1662. Time limitations for completing a program of education

Delimiting Period for Completion

(a) No educational assistance shall be afforded an eligible veteran under this chapter beyond the date 10 years after the veteran's last discharge or release from active duty after January 31, 1955.

Correction of Discharge

(b) In the case of any eligible veteran who has been prevented, as determined by the Administrator, from completing a program of education under this chapter within the period prescribed by subsection (a), because the veteran had not met the nature of discharge requirements of this chapter before a change, correction, or modification of a discharge or dismissal made pursuant to section 1553 of title 10, the correction of the military records of the proper service department under section 1552 of title 10, or other corrective action by competent authority, then the 10-year delimiting period shall run from the date the veteran's discharge or dismissal was changed, corrected, or modified.

Savings Clause

(c) In the case of any eligible veteran who was discharged or released from active duty before the date for which an educational assistance allowance is first payable under this chapter, the 10-year delimiting period shall run from such date, if it is later than the date which otherwise would be applicable. In the case of any eligible veteran who was discharged or released from active duty before the date of enactment of this sentence and who pursues a course of farm cooperative training, apprenticeship or other training on the job, or flight training within the provisions of section 1677 of this chapter, the 10-year delimiting period shall run from the date of enactment of this sentence, if it is later than the date which would otherwise be applicable.

(d) In the case of any veteran (1) who served on or after January 31, 1955, (2) who became eligible for educational assistance under the provisions of this chapter or chapter 36 of this title, and (3) who, subsequent to the veteran's last discharge or release from active duty, was captured and held as a prisoner of war by a foreign government or power, there shall be excluded, in computing the veteran's 10-year period of eligibility for educational assistance, any period during which the veteran's was so detained and any period immediately following the veteran's release from such detention during which the veteran was hospitalized at a military, civilian, or Veterans' Administration medical facility.

(e) No educational assistance shall be afforded any eligible veteran under this chapter or chapter 36 of this title after December 31, 1989.

(Added Pub. L. 89-358, § 2, Mar. 3, 1966, 80 Stat. 14, and amended Pub. L. 90-77, title III, § 305, Aug. 31, 1967, 81 Stat. 188; Pub. L. 93-337, § 1, July 10, 1974, 88 Stat. 292; Pub. L. 94-502, title II, § 211(3), title IV, § 403(b), Oct. 15, 1976, 90 Stat. 2388, 2393.)

REFERENCES IN TEXT

Date of enactment of this sentence, referred to in subsec. (c), was Aug. 31, 1967, the date of approval of Pub. L. 90-77, which enacted such sentence.

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a) and (b) of this section were contained in Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1176 (which was classified to sections 1612(c) and 1613(a), and 1612(a) of this title, respectively) prior to repeal thereof by section 4(a) of Pub. L. 89-358.

A prior section 1662, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1190, of former chapter 33, Education of Korean Conflict Veterans, which related to Advisory Committee, was repealed by section 4(a) of Pub. L. 89-358, and is now covered by section 1788 of this title.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502, § 211(3), substituted "the veteran's" for "his".

Subsecs. (b), (d). Pub. L. 94-502, § 211(3), substituted "the veteran's" for "his" and "the veteran" for "he", wherever appearing.

Subsec. (e). Pub. L. 94-502, § 403(b), added subsec. (e).

1974—Subsec. (a). Pub. L. 93-337, § 1(1), substituted "10" for "eight".

Subsec. (b). Pub. L. 93-337, § 1(2), substituted "10-year" for "8-year".

Subsec. (c). Pub. L. 93-337, § 1(3), substituted "10-year" for "8-year" and "eight year," respectively.

Subsec. (d). Pub. L. 93-337, § 1(4), added subsec. (d).

1967—Subsec. (c). Pub. L. 90-77 added the second sentence respecting commencement of the delimiting period in the case of an eligible veteran discharged from active duty and pursuing training on the job or flight training.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 403(b) of Pub. L. 94-502 effective Jan. 1, 1977, see section 406 of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1601 of this title.

Amendment by Pub. L. 94-502 effective on Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

EXTENSION OF TIME FOR PURSUIT OF EDUCATIONAL PROGRAMS

Pub. L. 93-293, May 31, 1974, 88 Stat. 176, provided: "That, notwithstanding any other provision of law, the eight-year delimiting date for pursuit of educational programs under chapter 34 of title 38, United States Code, for eligible veterans discharged or released from active duty between January 31, 1955, and September 1, 1966 (except for those veterans whose discharges are subject to the provisions of section 1662(b) of such chapter, or who are pursuing courses of farm cooperative training, apprenticeship or other training on the job, or flight training under such chapter), shall run from July 1, 1966."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 20 section 1070e-1.

§ 1663. Educational and vocational counseling

The Administrator may arrange for educational and vocational counseling for veterans eligible for educational assistance under this chapter. At such intervals as the Administrator deems necessary, the Administrator shall make available information respecting the need for general education and for trained personnel in the various crafts, trades, and professions. Facilities of other Federal agencies collecting such information shall be utilized to the extent the Administrator deems practicable.

(Added Pub. L. 89-358, § 2, Mar. 3, 1966, 80 Stat. 15, and amended Pub. L. 94-502, title II, § 211(4), Oct. 15, 1976, 90 Stat. 2388.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1177, which was classified to section 1620 (first sentence) of this title, prior to repeal thereof by section 4(a) of Pub. L. 89-358.

A prior section 1663, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1190, of former chapter 33, Education of Korean Conflict Veterans, which provided for control by agencies of United States, was repealed by section 4(a) of Pub. L. 89-358, and is now covered by section 1782 of this title.

A prior section 1664, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1190, of former chapter 33, Education of Korean Conflict Veterans, which related to conflicting interests by officers or employees of the Veterans Administration, Office of Education, or State approving agency, was repealed by section 4(a) of Pub. L. 89-358, and is now covered by section 1783 of this title.

A prior section 1665, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1191, of former chapter 33, Education of Korean Conflict Veterans, which related to reports by institutions concerning Korean conflict veterans, was repealed by section 4(a) of Pub. L. 89-358, and is now covered by section 1784 of this title.

A prior section 1666, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1191, of former chapter 33, Education of Korean Conflict Veterans, which related to overpayments to Korean conflict veterans, was repealed by section 4(a) of Pub. L. 89-358, and is now covered by section 1785 of this title.

A prior section 1667, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1191, of former chapter 33, Education of Korean Conflict Veterans, which related to examination of records of Korean conflict veterans, was repealed by section 4(a) of Pub. L. 89-358, and is now covered by section 1786 of this title.

A prior section 1668, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1192, of former chapter 33, Education of Korean Conflict Veterans, which related to submitting false and misleading claims by Korean conflict veterans or educational institutions, was repealed by section 4(a) of Pub. L. 89-358, and is now covered by section 1787 of this title.

A prior section 1669, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1192, of former chapter 33, Education of Korean Conflict Veterans, which related to information furnished by Federal Trade Commission to State approving agencies, was repealed by section 4(a) of Pub. L. 89-358.

AMENDMENTS

1976—Pub. L. 94-502 substituted "the Administrator deems necessary, the Administrator shall" for "he deems necessary, he shall" and "the Administrator deems practicable" for "he deems practicable".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective on Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

SUBCHAPTER III—ENROLLMENT

§ 1670. Selection of program

Subject to the provisions of this chapter, each eligible veteran may select a program of education to assist the veteran in attaining an educational, professional, or vocational objective at any educational institution (approved in accordance with chapter 36 of this title) selected by the veteran, which will accept and retain the veteran as a student or trainee in any field or branch of knowledge which such institution finds the veteran qualified to undertake or pursue.

(Added Pub. L. 89-358, § 2, Mar. 3, 1966, 80 Stat. 15, and amended Pub. L. 94-502, title II, § 211(5), Oct. 15, 1976, 90 Stat. 2388.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1177, which was classified to section 1620 (first sentence) of this title, prior to repeal thereof by section 4(a) of Pub. L. 89-358.

AMENDMENTS

1976—Pub. L. 94-502 substituted "the veteran" for "him" wherever appearing.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective on Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1641 of this title.

§ 1671. Applications; approval

Any eligible veteran, or any person on active duty (after consultation with the appropriate service education officer), who desires to initiate a program of education under this chapter shall submit an application to the Administrator which shall be in such form, and contain such information, as the Administrator shall prescribe. The Administrator shall approve such application unless the Administrator finds that such veteran or person is not eligible for or entitled to the educational assistance applied for, or that the veteran's or person's program of education fails to meet any of the requirements of this chapter, or that the veteran or person is already qualified. The Administrator shall notify the veteran or person of the approval or disapproval of the veteran's or person's application.

(Added Pub. L. 89-358, § 2, Mar. 3, 1966, 80 Stat. 15, and amended Pub. L. 92-540, title III, § 302, Oct. 24, 1972, 86 Stat. 1080; Pub. L. 94-502, title II, § 211(6), Oct. 15, 1976, 90 Stat. 2388.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1177, which was classified to section 1621 of this title, prior to repeal thereof by section 4(a) of Pub. L. 89-358.

AMENDMENTS

1976—Pub. L. 94-502 substituted "unless the Administrator finds" for "unless he finds", "the veteran or person" for "he", and "the veteran's or person's" for "his" in two places.

1972—Pub. L. 92-540 added provision authorizing any person on active duty, after consultation with the appropriate service education officer, to submit an application to the Administrator.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective on Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1641, 1682, 1691 of this title.

[§ 1672. Repealed. Pub. L. 92-540, title IV, § 401(6), Oct. 24, 1972, 86 Stat. 1090]

Section, Pub. L. 89-358, § 2, Mar. 3, 1966, 80 Stat. 15, related to change of program by the veteran. See now section 1791 of this title.

§ 1673. Disapproval of enrollment in certain courses

(a) The Administrator shall not approve the enrollment of an eligible veteran in—

(1) any bartending course or personality development course;

(2) any sales or sales management course which does not provide specialized training within a specific vocational field, or in any other course with a vocational objective, unless the eligible veteran or the institution offering such course submits justification showing that at least one-half of the persons who completed such course over the preceding two-year period, and who are not unavailable for employment, have been employed in the occupational category for which the course was designed to provide training (but in computing the number of persons who completed such course over any such two-year period, there shall not be included the number of persons who completed such course with assistance under this title while serving on active duty);

(3) any type of course which the Administrator finds to be avocational or recreational in character (or the advertising for which the Administrator finds contains significant avo-

cational or recreational themes) unless the veteran submits justification showing that the course will be of bona fide use in the pursuit of the veteran's present or contemplated business or occupation; or

(4) any independent study program except one leading to a standard college degree.

(b) Expect as provided in section 1677 of this title, the Administrator shall not approve the enrollment of an eligible veteran in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible veteran is seeking.

(c) The Administrator shall not approve the enrollment of an eligible veteran in any course to be pursued by open circuit television (except as herein provided) or radio. The Administrator may approve the enrollment of an eligible veteran in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through the medium of open circuit television, if the major portion of the course requires conventional classroom or laboratory attendance.

(d) The Administrator shall not approve the enrollment of any eligible veteran, not already enrolled, in any course (other than one offered pursuant to subchapter V, any farm cooperative training course, or any course described in section 1789(b)(6) of this title) for any period during which the Administrator finds that more than 85 per centum of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution, by the Veterans' Administration under this title and/or by grants from any Federal agency. The Administrator may waive the requirements of this subsection, in whole or in part, if the Administrator determines it to be in the interest of the eligible veteran and the Federal Government.

(Added Pub. L. 89-358, § 2, Mar. 3, 1966, 80 Stat. 16, and amended Pub. L. 90-77, title III, §§ 302(a), 303(a), Aug. 31, 1967, 81 Stat. 185; Pub. L. 91-219, title II, § 202, Mar. 26, 1970, 84 Stat. 78; Pub. L. 92-540, title IV, § 401(2), Oct. 24, 1972, 86 Stat. 1090; Pub. L. 93-508, title II, § 203, Dec. 3, 1974, 88 Stat. 1582; Pub. L. 94-502, title II, §§ 205, 211(7), Oct. 15, 1976, 90 Stat. 2387, 2388.)

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a) and (d) of this section were contained in Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1178, which was classified to section 1623(b), (c) of this title, prior to repeal thereof by section 4(a) of Pub. L. 89-358.

AMENDMENTS

1976—Subsec. (a)(3). Pub. L. 94-502, § 211(7), substituted "the Administrator" for "he" and "the veteran's" for "his".

Subsec. (a)(4). Pub. L. 94-502, § 205(1) to (3), added subsec. (a)(4).

Subsec. (d). Pub. L. 94-502, § 205(4), substituted "any farm cooperative training course, or any course described in section 1789(b)(6) of this title)" for "or subchapter VI of this chapter) which does not lead to a standard college degree and which is offered by a proprietary profit or proprietary nonprofit educational institution", "by the Veterans' Administration under this title and/or by grants from any federal agency" for "or the Veterans' Administration under this title", and added provision authorizing the Administrator to waive the requirements of this subsection if he deems it in the interest of the veteran and the Federal Government.

1974—Subsec. (a)(2). Pub. L. 93-508, § 203(1), substituted "or in any other course with a vocational objective, unless the eligible veteran" for "unless the eligible veteran", "the persons who completed" for "the persons completing", and "period, and who are not available for employment, have been employed in the occupational category for which the course was designed to provide training" for "period have been employed in the sales or sales management field", and added parenthetical provisions covering exclusion of the number of persons who completed the course with assistance under this title.

Subsec. (a)(3). Pub. L. 93-508, § 203(2), added parenthetical provisions relating to finding by Administrator of advertisements containing significant avocational or recreational themes.

Subsec. (d). Pub. L. 93-508, § 203(3), substituted "course (other than one offered pursuant to subchapter V or subchapter VI of this chapter) which does not lead to a standard college degree and which is offered by" for "non-accredited course below the college level offered by", and substituted reference to this title for reference to this chapter and chapter 31, 34 or 36 of this title.

1972—Subsec. (d). Pub. L. 92-540 substituted references to chapter 34 or 36 of this title for reference to chapter 35 of this title.

1970—Subsec. (a). Pub. L. 91-219 added provisions enabling the Administrator to disapprove the enrollment of an eligible veteran in any bartending course or personality development course and any sales or sales management course which does not provide specialized training within a specific vocational field, with some exceptions.

1967—Subsec. (b). Pub. L. 90-77, § 302(a), inserted the introductory phrase "Except as provided in section 1677 of this title".

Subsec. (c). Pub. L. 90-77, § 303(a), struck out following "in any course" the words "of apprentice or other training on the job, any course of institutional on-farm training, or any course".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment of subsec. (a) by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

Amendment of subsec. (d) by Pub. L. 94-502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1641 of this title.

§ 1674. Discontinuance for unsatisfactory conduct or progress

The Administrator shall discontinue the educational assistance allowance of an eligible vet-

eran if, at any time, the Administrator finds that according to the regularly prescribed standards and practices of the educational institution, the veteran's conduct or progress is unsatisfactory. Unless the Administrator finds there are mitigating circumstances, progress will be considered unsatisfactory at any time the eligible veteran is not progressing at a rate that will permit such veteran to graduate within the approved length of the course based on the training time as certified to the Veterans' Administration. The Administrator may renew the payment of the educational assistance allowance only if the Administrator finds that—

(1) the cause of the unsatisfactory conduct or progress of the eligible veteran has been removed; and

(2) the program which the eligible veteran now proposes to pursue (whether the same or revised) is suitable to the veteran's aptitudes, interests, and abilities.

(Added Pub. L. 89-358, § 2, Mar. 3, 1966, 80 Stat. 16, and amended Pub. L. 94-502, title II, §§ 206, 211(8), Oct. 15, 1976, 90 Stat. 2387, 2388.)

PRIOR PROVISIONS

Provisions similar to those comprising the first sentence of this section were contained in Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1178, which was classified to section 1624 of this title, prior to repeal thereof by section 4(a) of Pub. L. 89-358.

AMENDMENTS

1976—Pub. L. 94-502 substituted "the veteran's" for "his" in two places, and "if the Administrator finds" for "if he finds", and added provision specifying progress as unsatisfactory when the veteran will not be able to graduate within the approved length of the course.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 206 of Pub. L. 94-502, specifying progress as unsatisfactory when the veteran will not be able to graduate within the approved length of the course, effective Dec. 1, 1976, see section 703(c) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

Amendment by section 211(8), substituting "the veteran's" for "his" in two places and "if the Administrator finds" for "if he finds", effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1641 of this title.

[§ 1675. Repealed. Pub. L. 92-540, title IV, § 401(6), Oct. 24, 1972, 86 Stat. 1090]

Section, Pub. L. 89-358, § 2, Mar. 3, 1966, 80 Stat. 16, related to the period of operation for approval by the Administrator. See now section 1789 of this title.

§ 1676. Education outside the United States

An eligible veteran may not pursue a program of education at an educational institution which is not located in a State, unless such program is pursued at an approved educational institution of higher learning. The Administrator in the Administrator's discretion may deny or discontinue the educational assistance under this chapter of any veteran in a foreign educational institution if the Administrator finds that such enrollment is not for the best interest of the veteran or the Government.

(Added Pub. L. 89-358, § 2, Mar. 3, 1966, 80 Stat. 17, and amended Pub. L. 94-502, title II, § 211(9), Oct. 15, 1976, 90 Stat. 2389.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1177, which was classified to section 1620 (second and third sentences) of this title, prior to repeal thereof by section 4(a) of Pub. L. 89-358.

AMENDMENTS

1976—Pub. L. 94-502 substituted "the Administrator's" for "his" and "if the Administrator finds" for "if he finds".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective on Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1641 of this title.

§ 1677. Flight training

(a) The Administrator may approve the pursuit by an eligible veteran of flight training where such training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation or where generally recognized as ancillary to the pursuit of a vocational endeavor other than aviation, subject to the following conditions:

(1) the eligible veteran must possess a valid private pilot's license and meet the medical requirements necessary for a commercial pilot's license; and

(2) the flight school courses must meet the Federal Aviation Administration standards and be approved both by that Agency and the appropriate State approving agency.

(b) Each eligible veteran who is pursuing a program of education consisting exclusively of flight training approved as meeting the requirements of subsection (a) hereof, shall be paid an educational assistance allowance to be computed at the rate of 90 per centum of the established charges for tuition and fees which similarly circumstanced non-veterans enrolled in the same flight course are required to pay. Such allowance shall be paid monthly upon receipt of a certification as required by section 1681(c) of this title. In each such case the eligible veteran's period of entitlement shall be charged with one month for each $270 which is paid to the veteran as an educational assistance allowance for such course.

(Added Pub. L. 90-77, title III, § 302(b), Aug. 31, 1967, 81 Stat. 185, and amended Pub. L. 90-631, § 5, Oct. 23, 1968, 82 Stat. 1335; Pub. L. 91-219, title I, § 102, title II, § 203, Mar. 26, 1970, 84 Stat. 76, 78; Pub. L. 92-540, title I, § 102(1), title IV, § 401(3), Oct. 24, 1972, 86 Stat. 1075, 1099; Pub. L. 93-508, title I, § 102(1), Dec. 3, 1974, 88 Stat. 1579; Pub. L. 93-602, title II, § 203(a), Jan. 2, 1975, 88 Stat. 1958.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 93-602 substituted "$270" for "$260".

1974—Subsec. (b). Pub. L. 93-508 substituted "$260" for "$220".

1972—Subsec. (b). Pub. L. 92-540 substituted provisions relating to certification as required by section 1681 (c) of this title, for provisions relating to certification from the eligible veteran and the institution as to actual flight training received by the veteran during such month and the cost thereof, and "$220" for "$175".

1970—Subsec. (a). Pub. L. 91-219, § 203(a), in the material preceding par. (1), provided that the Administrator may approve the pursuit by an eligible veteran of flight training not only where such training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation, but where it is generally recognized as ancillary to the pursuit of a vocational endeavor other than aviation.

Subsec. (a)(1). Pub. L. 91-219, § 203(b), deleted "or must have satisfactorily completed the number of hours of flight training instruction required for a private pilot's license," following "the eligible veteran must possess a valid private pilot's license".

Subsec. (b). Pub. L. 91-219, § 102, substituted "$175" for "$130".

1968—Subsec. (b). Pub. L. 90-631 substituted provisions that the allowance shall be paid monthly for expenses incurred during such month for provisions that the allowance shall be paid quarterly for expenses incurred during such quarter.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-602 effective Jan. 1, 1975, see section 206 of Pub. L. 93-602, set out as an Effective Date of 1975 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Sept. 1, 1974, see section 501 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1501 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by section 102(1) of Pub. L. 92-540 effective Oct. 1, 1972, except for those veterans and eligible persons in training on Oct. 24, 1972, see section 601(a) of Pub. L. 92-540, set out as an Effective Date of 1972 Amendment note under section 1502 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment of subsec. (b) of this section by section 102 of Pub. L. 91-219 effective February 1, 1970, see section 301 of Pub. L. 91-219, set out as an Effective Date of 1970 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-631 effective on the first day of the second calendar month which begins after Oct. 23, 1968, see section 6(a) of Pub. L. 90-631, set out as an Effective Date of 1968 Amendment note under section 1502 of this title.

EFFECTIVE DATE

Section effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1641, 1662, 1673, 1682 of this title.

[§ 1678. Repealed. Pub. L. 91-219, title II, § 204(a)(2), Mar. 26, 1970, 84 Stat. 79]

Section, Pub. L. 90-77, title III, § 306(a), Aug. 31, 1967, 81 Stat. 188, related to special training for the educationally disadvantaged and is now covered by subchapter V of this chapter.

SUBCHAPTER IV—PAYMENTS TO ELIGIBLE VETERANS; VETERAN-STUDENT SERVICES

AMENDMENTS

1972—Pub. L. 92-540, title IV, § 404(b), Oct. 24, 1972, 86 Stat. 1091, added in Subchapter IV heading "; Veteran-Student Services".

§ 1681. Educational assistance allowance

General

(a) The Administrator shall, in accordance with the applicable provisions of this section and chapter 36 of this title, pay to each eligible veteran who is pursuing a program of education under this chapter an educational assistance allowance to meet, in part, the expenses of the veteran's subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

Institutional Training

(b) The educational assistance allowance of an eligible veteran pursuing a program of education, other than a program exclusively by correspondence or a program of flight training, at an educational institution shall be paid as provided in chapter 36 of this title.

Flight Training

(c) No educational assistance allowance for any month shall be paid to an eligible veteran who is pursuing a program of education consisting exclusively of flight training until the Administrator shall have received a certification from the eligible veteran and the institution as to actual flight training received by, and the cost thereof to, the veteran during that month.

(Added Pub. L. 89-358, § 2, Mar. 3, 1966, 80 Stat. 17, and amended Pub. L. 91-219, title II, § 205, Mar. 26, 1970, 84 Stat. 81; Pub. L. 91-584, § 6, Dec. 24, 1970, 84 Stat. 1576; Pub. L. 92-540, title II, § 202, Oct. 24, 1972, 86 Stat. 1079; Pub. L. 94-502, title II, §§ 210(2), 211(10), Oct. 15, 1976, 90 Stat. 2388, 2389.)

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a), (b), (d), and (e) of this section were contained in Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1179, which was classified to section 1631 of this title, prior to repeal thereof by section 4(a) of Pub. L. 89-358.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502, §§ 210(2), 211(10), substituted "chapter 36" for "section 1780" and "the veteran's" for "his".

Subsec. (b). Pub. L. 94-502, § 210(2), substituted "chapter 36" for "section 1780".

1972—Subsec. (a). Pub. L. 92-540 added subsec. catchline "General" and provisions requiring allowances to be paid in accordance with the applicable provisions of this section and section 1780 of this title.

Subsec. (b). Pub. L. 92-540 added subsec. catchline "Institutional Training", and substituted provisions

requiring allowances of an eligible veteran pursuing a program of education, other than a program exclusively by correspondence or a program of flight training, at an educational institution to be paid as provided in section 1780 of this title, for provisions requiring allowances of an eligible veteran to be paid, as provided in section 1682 of this title, only for the period of his enrollment as approved by the Administrator, but limiting such payments to veterans meeting certain specified requirements while pursuing standard college degrees.

Subsec. (c). Pub. L. 92-540 added subsec. catchline "Flight Training", and substituted provisions relating to the payment of allowances to eligible veterans pursuing a program of education consisting exclusively of flight training, for provisions authorizing the Administrator to prescribe regulations to determine enrollment in, pursuit of, and attendance at, any program of education or course by an eligible veteran.

Subsec. (d). Pub. L. 92-540 struck out subsec. (d), which related to certification to the Administrator from the eligible veteran as to his actual attendance or completion of lessons by correspondence, and from the educational institution that such veteran was enrolled in and pursuing a course of education during such period or completion of lessons by correspondence by the veteran and serviced by the institution.

Subsec. (e). Pub. L. 92-540 struck out subsec. (e), which related to the prompt payment of the educational assistance allowance to the veteran.

1970—Subsec. (b)(2). Pub. L. 91-584 excluded programs of apprenticeship and programs of other on-job training authorized by section 1683 of this title for educational assistance to veterans.

Subsec. (d). Pub. L. 91-219 added the provision that the Administrator may pay an educational assistance allowance representing the initial payment of an enrollment period, not exceeding one full month, upon receipt of a certificate of enrollment.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1641, 1677, 1691 of this title.

§ 1682. Computation of educational assistance allowances

(a)(1) Except as provided in subsection (b), or (c) of this section, or section 1677 or 1787 of this title, while pursuing a program of education under this chapter of half-time or more, each eligible veteran shall be paid the monthly educational assistance allowance set forth in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the applicable type of program as shown in column I:

Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
			The amount in column IV, plus the following for each dependent in excess of two:	
Institutional:				
Full-time	$292	$347	$396	$24
Three-quarter-time	219	260	297	18
Half-time	146	174	198	12
Cooperative	235	276	313	18

(2) A "cooperative" program, other than a "farm cooperative" program, means a full-time program of education which consists of institutional courses and alternate phases of training in a business or industrial establishment with the training in the business or industrial establishment being strictly supplemental to the institutional portion.

(b) The educational assistance allowance of an individual pursuing a program of education—

(1) while on active duty, or

(2) on less than a half-time basis,

shall be computed at the rate of (A) the established charges for tuition and fees which the institution requires similarly circumstanced nonveterans enrolled in the same program to pay, or (B) $292 per month for a full-time course, whichever is the lesser.

(c)(1) An eligible veteran who is enrolled in an educational institution for a "farm cooperative" program consisting of institutional agricultural courses prescheduled to fall within 44 weeks of any period of 12 consecutive months and who pursues such program on—

(A) a full-time basis (a minimum of ten clock hours per week or four hundred and forty clock hours in such year prescheduled to provide not less than eighty clock hours in any three-month period),

(B) a three-quarter-time basis (a minimum of 7 clock hours per week), or

(C) a half-time basis (a minimum of 5 clock hours per week)

shall be eligible to receive an educational assistance allowance at the appropriate rate provided in the table in paragraph (2) of this subsection, if such eligible veteran is concurrently engaged in agricultural employment which is relevant to such institutional agricultural courses as determined under standards prescribed by the Administrator. In computing the foregoing clock hour requirements there shall be included the time involved in field trips and individual and group instruction sponsored and conducted by the educational institution through a duly authorized instructor of such institution in which the veteran is enrolled.

(2) The monthly educational assistance allowance of an eligible veteran pursuing a farm cooperative program under this chapter shall be paid as set forth in column II, III, IV, or V (whichever is applicable as determined by

the veteran's dependency status) opposite the basis shown in column I:

Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
			The amount in column IV, plus the following for each dependent in excess of two:	
Full-time	$235	$276	$313	$18
Three-quarter-time	176	207	235	14
Half-time	118	138	157	9

(d)(1) Notwithstanding the prohibition in section 1671 of this title prohibiting enrollment of an eligible veteran in a program of education in which such veteran has "already qualified," a veteran shall be allowed up to six months of educational assistance (or the equivalent thereof in part-time assistance) for the pursuit of refresher training to permit such veteran to update such veteran's knowledge and skills and to be instructed in the technological advances which have occurred in such veteran's field of employment during and since the period of such veteran's active military service.

(2) A veteran pursuing refresher training under this subsection shall be paid an educational assistance allowance based upon the rate prescribed in the table in subsection (a)(1) or in subsection (c)(2) of this section, whichever is applicable.

(3) The educational assistance allowance paid under the authority of this subsection shall be charged against the period of entitlement the veteran has earned pursuant to section 1661(a) of this title.

(e) The educational assistance allowance of an eligible veteran pursuing an independent study program which leads to a standard college degree shall be computed at the rate provided in subsection (b)(2) of this section. In those cases where independent study is combined with resident training and the resident training constitutes the major portion of such training, the maximum allowance may not exceed the full-time institutional allowance provided under subsection (a)(1) of this section.

(Added Pub. L. 89-358, § 2, Mar. 3, 1966, 80 Stat. 18, and amended Pub. L. 90-77, title III, §§ 301, 303(b), Aug. 31, 1967, 81 Stat. 184, 185; Pub. L. 90-631, § 3, Oct. 23, 1968, 82 Stat. 1333; Pub. L. 91-219, title I, § 103(a)-(d), title II, § 204(a)(3), Mar. 26, 1970, 84 Stat. 76, 77, 79; Pub. L. 91-584, § 9, Dec. 24, 1970, 84 Stat. 1577; Pub. L. 92-540, title I, § 102(2)-(4), title III, § 303, title IV, § 401 (4), (5), Oct. 24, 1972, 86 Stat. 1075, 1081, 1090; Pub. L. 93-508, title I, § 102(2)-(4), title II, § 204, Dec. 3, 1974, 88 Stat. 1579, 1582; Pub. L. 93-602, title II, § 203(b), Jan. 2, 1975, 88 Stat. 1958; Pub. L. 94-502, title II, §§ 201(1)-(3), 207, Oct. 15, 1976, 90 Stat. 2384, 2385, 2387.)

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a), (b)(2), (c)(1), and (c)(2) of this section were contained in Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1176, 1180, which was classified to sections 1632(a) and (b), (f), (e), and 1611(c) of this title, respectively, prior to repeal thereof by section 4(a) of Pub. L. 89-358.

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-502, § 201(1), increased the monthly educational assistance allowance for eligible veterans in column II from $270, $203, $135, and $217 to $292, $219, $146 and $235; in column III from $321, $240, $160, and $255 to $347, $260, $174, and $276; in column IV from $366, $275, $182, and $289 to $396, $297, $198, and $313; in column V from $22, $17, $11, and $17 to $24, $18, $12, and $18, respectively.

Subsec. (b). Pub. L. 94-502, § 201(2), substituted "$292" for "$270".

Subsec. (c)(2). Pub. L. 94-502, § 201(3), increased the monthly educational assistance allowance for eligible veterans pursuing a farm cooperative program in column II from $217, $163, and $109 to $235, $176, and $118; in column III from $255, $191, and $128 to $276, $207 and $138; in column IV from $289, $218, and $145 to $313, $235, and $157; in column V from $17, and $13 to $18, and $14, respectively.

Subsec. (e). Pub. L. 94-502, § 207, added subsec. (e).

1975—Subsec. (b). Pub. L. 93-602 substituted "$270" for "$260".

1974—Subsec. (a)(1). Pub. L. 93-508, § 102(2), increased the monthly educational assistance allowance for eligible veterans in column II from $220, $165, $110, and $177 to $270, $203, $135, and $217; in column III from $261, $196, $131, and $208 to $321, $240, $160, and $255; in column IV from $298, $224, $149, and $236 to $366, $275, $182, and $289; and in column V from $18, $14, $9, and $14 to $22, $17, $11, and $17, respectively.

Subsec. (b). Pub. L. 93-508, § 102(3), substituted "$260" for "$220".

Subsec. (c)(2). Pub. L. 93-508, § 102(4), increased the educational assistance allowance rates for eligible veterans pursuing a farm cooperative program in column II from $177, $133, and $89 to $217, $163, and $109; in column III from $208, $156, and $104 to $255, $191, and $128; in column IV from $236, $177, and $118 to $289, $218, and $145; and in column V from $14, $11, and $7 to $17, $13, and $9 respectively.

Subsec. (d). Pub. L. 93-508, § 204, added subsec. (d).

1972—Subsec. (a)(1), Pub. L. 92-540, §§ 102(2), 401(4), substituted references to subsec. (c) of this section and section 1787 of this title for references to subsec. (c)(1) or (d) of this section and section 1683 of this title, respectively, and increased the monthly educational assistance allowance for eligible veterans in column II from $175, $128, $81, and $141 to $220, $165, $110, and $177; in column III from $205, $152, $100, and $167 to $261, $196, $131, and $208; in column IV from $230, $177, $114, and $192 to $298, $224, $149, and $236; and in column V from $13, $10, $7, and $10 to $18, $14, $9, and $14, respectively.

Subsec. (b). Pub. L. 92-540, §§ 102(3), 401(5), substituted "$220" for "$175", and struck out provisions relating to payment of the educational assistance allowance provided by this subsection and the educational assistance allowance provided by section 1696(b) of this title.

Subsec. (c). Pub. L. 92-540, §§ 102(4), 303, struck out former subsec. (c), which related to the computation of the educational assistance allowance of an eligible veteran pursuing a program of education exclusively by correspondence. Former subsec. (d) was redesignated as subsec. (c), and, as so redesignated, in par. (1)(A) generally amended prerequisites for a full-time basis program, in par. (1)(B) substituted "7" for "9", in par. (1)(C) substituted "5" for "6", following par. (1)(C) added provision relating to the computation of the clock hour requirements, and in par. (2) increased the educational assistance allowance rates for eligible veterans pursuing a farm cooperative program in column

II from $141, $101, and $67 to $177, $133, and $89; in column III from $165, $119, and $79 to $208, $156, and $104; in column IV from $190, $138, and $92 to $236, $177, and $118; and in column V from $10, $7, and $4 to $14, $11, and $7, respectively.

Subsec. (d). Pub. L. 92-540, § 303, redesignated former subsec. (d) as (c).

1970—Subsec. (a)(1). Pub. L. 91-219, § 103(a), increased the monthly educational assistance allowance for eligible veterans in column II from $130, $95, $60, and $105 to $175, $128, $81, and $141; in column III from $155, $115, $75, and $125 to $205, $152, $100, and $167; in column IV from $175, $135, $85, and $145 to $230, $177, $114, and $192; in column V from $10, $7, $5, and $7 to $13, $10, $7, and $10, respectively.

Subsec. (b). Pub. L. 91-219, §§ 103(b), 204(a)(3), substituted "$175" for "$130" and added provision that educational assistance allowance provided by this subsection and the educational assistance allowance provided by section 1696(b) be made in an amount computed for the entire quarter, semester, or term during the month immediately following the month in which certification is received.

Subsec. (c)(1). Pub. L. 91-584 added definition of "established charge".

Subsec. (c)(2). Pub. L. 91-219, § 103(c), substituted "$175" for "$130".

Subsec. (d)(2). Pub. L. 91-219, § 103(d), increased the educational assistance allowance rates for eligible veterans pursuing a farm cooperative program in column II from $105, $75, and $50 to $141, $101, and $67; in column III from $125, $90, and $60 to $165, $119 and $79; in column IV from $145, $105, and $70 to $190, $138, and $92; in column V from $7, $5, and $3 to $10, $7, and $4, respectively.

1968—Subsec. (a)(2). Pub. L. 90-631, § 3(b)(1), added ", other than a 'farm cooperative' program," following "A 'cooperative' program".

Subsec. (c)(2). Pub. L. 90-631, § 3(a), substituted provisions charging the period of entitlement of any eligible veteran with one month for each $130 paid to such veteran as an educational assistance allowance when such veteran is pursuing a program of education exclusively by correspondence for provisions charging the period of entitlement of any eligible veteran with one-fourth of the elapsed time in following such program of education.

Subsec. (d). Pub. L. 90-631, § 3(b)(2), added the requirement that the "farm cooperative" program consist of institutional agricultural courses prescheduled to fall within 44 weeks of any period of 12 consecutive months, added the provisions making veterans pursuing programs of 6 or 9 clock hours per week eligible to receive an educational assistance allowance, and substituted provisions that the appropriate rate for such allowance shall be as provided in the table set out in subsec. (d)(2) of this section for provisions that the appropriate rate shall be as provided in the table set out in subsec. (a)(1) of this section opposite the word "Cooperative" under Column I of such table.

1967—Subsec. (a)(1). Pub. L. 90-77, § 301(a), (b), included in the text preceding the table references to subsec. (d) of this section, sections 1677 and 1683 of this title, and column V; and, increased the monthly educational assistance allowance in column II from $100, $75, $50, and $80 to $130, $95, $60, and $105; in column III from $125, $95, $65, and $100 to $155, $115, $75, and $125; in column IV from $150, $115, $75, and $120 to $175, $135, $85, and $145 (restricting column IV to two dependents), and added column V (formerly covered in former column IV), respectively.

Subsec. (b)(2)(B). Pub. L. 90-77, § 301(c), substituted "$130" for "$100".

Subsec. (d). Pub. L. 90-77, § 303(b), added subsec. (d).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Oct. 1, 1976, see section 703(a) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-602 effective Jan. 1, 1975, see section 206 of Pub. L. 93-602, set out as an Effective Date of 1975 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of subsecs. (a), (b), and (c) by Pub. L. 93-508 effective Sept. 1, 1974, see section 501 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1501 of this title.

Amendment of subsec. (d) by Pub. L. 93-508 effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by sections 102(2), (3), (4), of Pub. L. 92-540 effective Oct. 1, 1972, except for those veterans and eligible persons in training on Oct. 24, 1972, see section 601(a) of Pub. L. 92-540, set out as an Effective Date of 1972 Amendment note under section 1502 of this title.

Amendment of subsec. (c) by Pub. L. 92-540 not to effect any enrollment agreement entered into by an eligible veteran prior to Jan. 1, 1973, see section 602 of Pub. L. 92-540, set out as an Effective Date note under section 1786 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment of subsecs. (a)(1), (b), (c)(2), and (d)(2) of this section by section 103(a) to (d) of Pub. L. 91-219 effective February 1, 1970, see section 301 of Pub. L. 91-219, set out as an Effective Date of 1970 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-631 effective on the first day of the second calendar month which begins after Oct. 23, 1968, see section 6(a) of Pub. L. 90-631, set out as an Effective Date of 1968 Amendment note under section 1502 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

OVERPAYMENTS TO VETERANS BY TANGIPAHOA PARISH SCHOOL BOARD, AMITE, LOUISIANA

Pub. L. 90-493, § 5, Aug. 19, 1968, 82 Stat. 809, provided that any veteran determined by the Administrator of Veterans' Affairs to have received overpayments of educational benefits under former chapter 33 of title 38, United States Code in connection with the institutional on-farm training program conducted by the Tangipahoa Parish School Board, Amite, Louisiana, would be relieved of all liability to the United States for the amount of such overpayment, remaining due on Aug. 19, 1968, by making application for relief within two years following Aug. 19, 1968.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1691, 1692, 1732, 1780 of this title.

§ 1683. Approval of courses

An eligible veteran shall receive the benefits of this chapter while enrolled in a course of education offered by an educational institution only if such course is approved in accordance with the provisions of subchapter I of chapter 36 of this title.

(Added Pub. L. 89-358, § 2, Mar. 3, 1966, 80 Stat. 19, § 1685, renumbered § 1686, Pub. L. 90-77,

title III, § 304(a), Aug. 31, 1967, 81 Stat. 186, renumbered § 1683, Pub. L. 92-540, title IV, § 401(7), Oct. 24, 1972, 86 Stat. 1090.)

PRIOR PROVISIONS

A prior section 1683, which related to the measurement of courses, was renumbered section 1684.

Another prior section 1683, added Pub. L. 90-77, title III, § 304(a), Aug. 31, 1967, 81 Stat. 186, and amended Pub. L. 91-219, title I, § 103(e), Mar. 26, 1970, 84 Stat. 77; Pub. L. 91-584, § 7, Dec. 24, 1970, 84 Stat. 1576, which related to apprenticeship or other on-job training, was repealed by Pub. L. 92-540, title IV, § 401(6), Oct. 24, 1972, 84 Stat. 1090. See section 1787 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1641, 1770 of this title.

§ 1684. Apprenticeship or other on-job training; correspondence courses

Any eligible veteran may pursue a program of apprenticeship or other on-job training or a program of education exclusively by correspondence and be paid an educational assistance allowance or training assistance allowance, as applicable, under the provisions of section 1787 or 1786 of this title.

(Added Pub. L. 92-540, title III, § 304, Oct. 24, 1972, 86 Stat. 1081.)

PRIOR PROVISIONS

A prior section 1684, which related to the overcharging of eligible veterans by educational institutions, was renumbered section 1685.

Another prior section 1684, added Pub. L. 89-358, § 2, Mar. 3, 1966, 80 Stat. 18, § 1683, renumbered Pub. L. 90-77, title III, § 304(a), Aug. 31, 1967, 81 Stat. 186, and amended Pub. L. 91-219, title II, § 206(a), Mar. 26, 1970, 84 Stat. 81; Pub. L. 91-584, §§ 8, 11, Dec. 24, 1970, 84 Stat. 1577, which related to the measurement of courses, was repealed by Pub. L. 92-540, title III, § 304, Oct. 24, 1972, 86 Stat. 1081. See section 1788 of this title.

§ 1685. Veteran-student services

(a) Veteran-students utilized under the authority of subsection (b) of this section shall be paid an additional educational assistance allowance (hereafter referred to as "work-study allowance"). Such work-study allowance shall be paid in the amount of $625 in return for such veteran-student's agreement to perform services, during or between periods of enrollment, aggregating two hundred and fifty hours during a semester or other applicable enrollment period, required in connection with (1) the out-reach services program under subchapter IV of chapter 3 of this title as carried out under the supervision of a Veterans' Administration employee, (2) the preparation and processing of necessary papers and other documents at educational institutions or regional offices or facilities of the Veterans' Administration, (3) the provision of hospital and domiciliary care and medical treatment under chapter 17 of this title, or (4) any other activity of the Veterans' Administration as the Administrator shall determine appropriate. An agreement may be entered into for the performance of services for periods of less than two hundred and fifty hours, in which case the amount of the work-study allownace to be paid shall bear the same ratio to the number of hours of work agreed to be performed as $625 bears to two hundred and fifty hours. In the case of any agreement providing for the performance of services for one hundred hours or more, the veteran student shall be paid $250 in advance, and in the case of any agreement for the performance of services for less than one hundred hours, the amount of the advance payment shall bear the same ratio to the number of hours of work agreed to be performed as $625 bears to two hundred and fifty hours.

(b) Notwithstanding any other provision of law, the Administrator shall utilize, in connection with the activities specified in subsection (a) of this section, the service of veteran-students who are pursuing full-time programs of education or training under chapters 31 and 34 of this title. In carrying out this section, the Administrator, wherever feasible, shall give priority to veterans with disabilities rated at 30 per centum or more for purposes of chapter 11 of this title. In the event the veteran ceases to be a full-time student before completing such agreement, the veteran may, with the approval of the Administrator, be permitted to complete such agreement.

(c) The Administrator shall determine the number of veterans whose services the Veterans' Administration can effectively utilize and the types of services that such veterans may be required to perform, on the basis of a survey, which the Administrator shall conduct annually, of each Veterans' Administration regional office in order to determine the numbers of veteran-students whose services can effectively be utilized during an enrollment period in each geographical area where Veterans' Administration activities are conducted, and shall determine which veteran-students shall be offered agreements under this section in accordance with regulations which the Administrator shall prescribe, including as criteria (1) the need of the veteran to augment the veteran's educational assistance or subsistence allowance; (2) the availability to the veteran of transportation to the place where the veteran's services are to be performed; (3) the motivation of the veteran; and (4) in the case of a disabled veteran pursuing a course of vocational rehabilitation under chapter 31 of this title, the compatibility of the work assignment to the veteran's physical condition.

(d) While performing the services authorized by this section, veteran-students shall be deemed employees of the United States for the purposes of the benefits of chapter 81 of title 5 but not for the purposes of laws administrated by the Civil Service Commission.

(Added Pub. L. 92-540, title II, § 203, Oct. 24, 1972, 86 Stat. 1079, and amended Pub. L. 93-508, title II, § 205, Dec. 3, 1974, 88 Stat. 1582; Pub. L. 94-502, title II, §§ 208, 211(11), Oct. 15, 1976, 90 Stat. 2388, 2389.)

PRIOR PROVISIONS

A prior section 1685, which related to the approval of courses, was renumbered section 1683.

Another prior section 1685, added Pub. L. 89-358, § 2, Mar. 3, 1966, 80 Stat. 19, § 1684, and renumbered Pub. L. 90-77, title III, § 304(a), Aug. 31, 1967, 81 Stat. 186, which related to the overcharging of eligible veterans by educational institutions, was repealed by Pub. L.

92-540, title II, § 203, Oct. 24, 1972, 86 Stat. 1079. See now section 1790 of this title.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-502, § 208, added provision permitting the veteran who ceases to be a full-time student to complete the agreement, with the approval of the Administrator.

Subsec. (c). Pub. L. 94-502, § 211(11), substituted "the Administrator shall conduct" for "he shall conduct", "the Administrator shall prescribe," for "he shall prescribe,", and "the veteran's" for "his" in two places.

1974—Subsec. (a). Pub. L. 93-508, § 205(1), (2), substituted "the amount of $625" for "in advance in the amount of $250", and "aggregating two hundred and fifty hours" for "aggregating one hundred hours", and substituted provisions that an agreement may be entered into for the performance of services for periods of less than two hundred and fifty hours, in which case the amount of the work-study allowance to be paid shall bear the same ratio to the number of hours of work agreed to be performed as $625 bears to two hundred and fifty hours and that in the case of any agreement providing for the performance of services for less than one hundred hours, the amount of the advance payment shall bear the same ratio to the number of hours of work agreed to be performed as $625 bears to two hundred and fifty hours, for provisions that advances of lesser amounts may be made in return for agreements to perform services for periods of less than one hundred hours, and that the amount of such advance shall bear the same ratio to the number of hours of work agreed to be performed as $250 bears to one hundred hours.

Subsec. (c). Pub. L. 93-508, § 205(3), struck out parenthetical provisions relating to a limit of eight-hundred man-years or their equivalent during any fiscal year.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective on Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 241, 243, 1502 of this title, title 20 section 1070e-1.

§ 1686. Education loans

Any eligible veteran shall be entitled to an education loan (if the program of education is pursued in a State) in such amount and on such terms and conditions as provided in sections 1798 and 1799 of this title.

(Added Pub. L. 93-508, title III, § 302(a), Dec. 3, 1974, 88 Stat. 1591.)

PRIOR PROVISIONS

A prior section 1686, which related to the approval of courses, was renumbered section 1683.

Another prior section 1686, which related to the discontinuance of educational assistance allowance by the Administrator, was renumbered section 1687.

EFFECTIVE DATE

Section effective on Jan. 1, 1975, except that eligible persons shall, upon application, be entitled to a loan under subchapter III of chapter 36 of this title, the terms of which take into account the full amount of the actual cost of attendance, as defined in section 1798(b)(2)(C) of this title, which such persons incurred for the academic year beginning on or about Sept. 1, 1974, see section 502 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1798 of this title.

[§ 1687. Repealed. Pub. L. 92-540, title IV, § 401(6), Oct. 24, 1972, 86 Stat. 1090]

Section, added Pub. L. 89-358, § 2, Mar. 3, 1966, 80 Stat. 19, § 1686, and renumbered Pub. L. 90-77, title III, § 304(a), Aug. 31, 1967, 81 Stat. 186, related to discontinuance of educational assistance allowance by the Administrator. See section 1790(b) of this title.

SUBCHAPTER V—SPECIAL ASSISTANCE FOR THE EDUCATIONALLY DISADVANTAGED

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1661, 1673, 1698, 1789 of this title; title 20 section 1070e-1.

§ 1690. Purpose

It is the purpose of this subchapter (1) to encourage and assist veterans who have academic deficiencies to attain a high school education or its equivalent and to qualify for and pursue courses of higher education, (2) to assist eligible veterans to pursue postsecondary education through tutorial assistance where required, and (3) to encourage educational institutions to develop programs which provide special tutorial, remedial, preparatory, or other educational or supplementary assistance to such veterans.

(Added Pub. L. 91-219, title II, § 204(a)(4), Mar. 26, 1970, 84 Stat. 79.)

§ 1691. Elementary and secondary education and preparatory educational assistance

(a) In the case of any eligible veteran not on active duty who—

(1) has not received a secondary school diploma (or an equivalency certificate) at the time of the veteran's discharge or release from active duty, or

(2) in order to pursue a program of education for which the veteran would otherwise be eligible, needs refresher courses, deficiency courses, or other preparatory or special educational assistance to qualify for admission to an appropriate educational institution,

the Administrator may, without regard to so much of the provisions of section 1671 as prohibit the enrollment of an eligible veteran in a program of education in which the veteran is "already qualified", approve the enrollment of such veteran in an appropriate course or courses or other special educational assistance program.

(b) The Administrator shall pay to an eligible veteran pursuing a course or courses or program pursuant to subsection (a) of this section, an educational assistance allowance as provided in sections 1681 and 1682(a) or (b) of this title.

(Added Pub. L. 91-219, title II, § 204(a)(4), Mar. 26, 1970, 84 Stat. 79, and amended Pub. L. 92-540, title III, § 305, Oct. 24, 1972, 86 Stat. 1081; Pub. L. 94-502, title II, § 211(12), Oct. 15, 1976, 90 Stat. 2389.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502 substituted "the veteran's" for "his" and "the veteran" for "he" wherever appearing.

1972—Subsec. (b). Pub. L. 92-540 struck out provision relating to the approval in excess of half-time training as defined pursuant to section 1684 of this title of enrollment in adult evening secondary school courses.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective on Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1698, 1733, 1780, 1788 of this title.

§ 1692. Special supplementary assistance

(a) In the case of any eligible veteran who—

(1) is enrolled in and pursuing a postsecondary course of education on a half-time or more basis at an educational institution; and

(2) has a deficiency in a subject required as a part of, or which is prerequisite to, or which is indispensible to the satisfactory pursuit of, an approved program of education,

the Administrator may approve individualized tutorial assistance for such veteran if such assistance is necessary for the veteran to complete such program successfully.

(b) The Administrator shall pay to an eligible veteran receiving tutorial assistance pursuant to subsection (a) of this section, in addition to the educational assistance allowance provided in section 1682 of this title, the cost of such tutorial assistance in an amount not to exceed $65 per month, for a maximum of twelve months, or until a maximum of $780 is utilized, upon certification by the educational institution that—

(1) the individualized tutorial assistance is essential to correct a deficiency of the eligible veteran in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, an approved program of education;

(2) the tutor chosen to perform such assistance is qualified; and

(3) the charges for such assistance do not exceed the customary charges for such tutorial assistance.

(Added Pub. L. 91-219, title II, § 204(a)(4), Mar. 26, 1970, 84 Stat. 80, and amended Pub. L. 92-540, title III, § 306, Oct. 24, 1972, 86 Stat. 1081; Pub. L. 93-508, title II, § 206, Dec. 3, 1974, 88 Stat. 1583; Pub. L. 94-502, title II, § 209, Oct. 15, 1976, 90 Stat. 2388.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-502 substituted "$65" for "$60" and "$780" for "$720".

1974—Subsec. (b). Pub. L. 93-508 substituted "$60 per month, for a maximum of twelve months, or until a maximum of $720" for "$50 per month, for a maximum of nine months, or until a maximum of $450".

1972—Subsec. (a)(2). Pub. L. 92-540, § 306(1), struck out "marked" preceding "deficiency".

Subsec. (b). Pub. L. 92-540, § 306(2), added "or until a maximum of $450 is utilized," following "nine months".

Subsec. (b)(1). Pub. L. 92-540, § 306(1), struck out "marked" preceding "deficiency".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Oct. 1, 1976, see section 703(a) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1733 of this title; title 20 section 1070e-1.

§ 1693. Effect on educational entitlement

The educational assistance allowance or cost of individualized tutorial assistance authorized by this subchapter shall be paid without charge to any period of entitlement the veteran may have earned pursuant to section 1661(a) of this title.

(Added Pub. L. 91-219, title II, § 204(a)(4), Mar. 26, 1970, 84 Stat. 80.)

SUBCHAPTER VI—PREDISCHARGE EDUCATION PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1631, 1661, 1780, 1789 of this title; title 20 section 1070e-1.

§ 1695. Purpose; definition

(a) The purpose of this subchapter is to encourage and assist veterans in preparing for their future education, training, or vocation by providing them with an opportunity to enroll in and pursue a program of education or training prior to their discharge or release from active duty with the Armed Forces. The program provided for under this subchapter shall be known as the Predischarge Education Program (PREP).

(b) For the purposes of this subchapter, the term "eligible person" means any person serving on active duty with the Armed Forces who has completed more than 180 consecutive days of such active duty service as certified to the Administrator by the Secretary concerned.

(Added Pub. L. 91-219, title II, § 204(a)(4), Mar. 26, 1970, 84 Stat. 80.)

§ 1696. Payment of educational assistance allowance

(a) The Administrator shall, under such regulations as the Administrator shall prescribe after consultation with the Secretary of Defense, pay the educational assistance allowance as computed in subsection (b) of this section to an eligible person enrolled in and pursuing (1) a course or courses offered by an educational institution (other than by correspondence) and required to receive a secondary school diploma, or (2) any deficiency, remedial, or refresher course or courses offered by an educational institution and required for or preparatory to the pursuit of an appropriate course or training program in an approved educational institution or training establishment.

(b) The educational assistance allowance of an eligible person pursuing education or training under this subchapter shall be computed at the rate of (1) the established charges for tuition and fees which the educational institution requires similarly circumstanced nonveterans enrolled in the same or a similar program to pay, and the cost of books and supplies peculiar to the course which such educational institution requires similarly circumstanced nonveterans enrolled in the same or a similar program to have, or (2) $292 per month for a full-time course, whichever is the lesser. Where it is determined that there is no same program, the Administrator shall establish appropriate rates for tuition and fees designed to allow reimbursement for reasonable costs for the education or training institution.

(c) The educational assistance allowance authorized by this section shall be paid without charge to any period of entitlement earned pursuant to section 1661(a) of this title.

(d) After October 31, 1976, no person other than a member of the Armed Forces described in section 1631(b) of this title shall be permitted to enroll, or re-enroll, in any course provided under the authority of this subchapter.

(Added Pub. L. 91-219, title II, § 204(a)(4), Mar. 26, 1970, 84 Stat. 80, and amended Pub. L. 92-540, title I, § 102(5), title III, § 307, Oct. 24, 1972, 86 Stat. 1075, 1081; Pub. L. 93-508, title I, § 102(5), Dec. 3, 1974, 88 Stat. 1580; Pub. L. 93-602, title II, § 203(c), Jan. 2, 1975, 88 Stat. 1958; Pub. L. 94-502, title II, §§ 201(4), 210(5), 211(13), Oct. 15, 1976, 90 Stat. 2385, 2388, 2389.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502, § 211(13), substituted "as the Administrator shall prescribe" for "as he shall prescribe".

Subsec. (b). Pub. L. 94-502, § 201(4), substituted "$292" for "$270".

Subsec. (d). Pub. L. 94-502, § 210(5), added subsec.(d).

1975—Subsec. (b). Pub. L. 93-602 substituted "$270" for "$260".

1974—Subsec. (b). Pub. L. 93-508 substituted "$260" for "$220".

1972—Subsec. (b). Pub. L. 92-540 substituted "$220" for "$175", and added provisions authorizing the Administrator to establish appropriate rates for tuition and fees designed to allow reimbursement for reasonable costs for the education or training institution where determined there is no same program.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment of subsecs. (a) and (d) by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

Amendment of subsec. (b) by Pub. L. 94-502 effective Oct. 1, 1976, see section 703(a) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-602 effective Jan. 1, 1975, see section 206 of Pub. L. 93-602, set out as an Effective Date of 1975 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Sept. 1, 1974, see section 501 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1501 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by section 102(5) of Pub. L. 92-540 effective Oct. 1, 1972, except for those veterans and eligible persons in training on Oct. 24, 1972, see section 601(a) of Pub. L. 92-540, set out as an Effective Date of 1972 Amendment note under section 1502 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1641, 1698, 1788 of this title.

§ 1697. Educational and vocational guidance

The Administrator shall, to the extent that professional counselors are available, provide, by contract or otherwise, educational and vocational guidance to persons eligible for educational assistance under this subchapter.

(Added Pub. L. 91-219, title II, § 204(a)(4), Mar. 26, 1970, 84 Stat. 81.)

§ 1698. Coordination with and participation by Department of Defense

(a) The Administrator shall designate an appropriate official of the Veterans' Administration who shall cooperate with and assist the Secretary of Defense and the official the Administrator designates as administratively responsible for such matters, in carrying out functions and duties of the Department of Defense under the PREP program authorized by this subchapter. It shall be the duty of such official to assist the Secretary of Defense in all matters entailing cooperation or coordination between the Department of Defense and the Veterans' Administration in providing training facilities and released time from duty necessary to carry out the purposes of the program.

(b) Educational institutions and training establishments administered by or under contract to the Department of Defense providing education and training to persons serving on active duty with the Armed Forces shall, in accordance with regulations jointly prescribed by the Administrator and the Secretary of Defense, be approved for the enrollment of eligible persons only at such time as the Secretary submits to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing such Department's plan for implementation of the program established under this subchapter (except that on-going programs of education and training at such institutions or establishments may be continued for ninety days after the date of enactment of this section and prior to the submission of such report), and periodically thereafter submits progress reports with respect to the implementation of such plan, which plan shall include provision for—

(1) each Secretary concerned to undertake an information and outreach program designed to advise, counsel, and encourage each eligible person within each branch of the Armed Forces with respect to enrollment in a program under this subchapter, with particular emphasis upon programs under sections 1691(a)(2) and 1696(a)(2) of this title, and in all other programs for which such person, prior to or following discharge or release from active duty, may be eligible under chapters 31 and 34 of this title;

(2) each Secretary concerned to undertake, in coordination with representatives of the Veterans' Administration, to arrange and carry out meetings with each approved educational institution located in the vicinity of an Armed Forces installation (or, in the case of installations overseas, which have the capacity to carry out such programs at such overseas installations) to encourage the establishment of a program by such institution under this subchapter and subchapter V of this chapter in connection with persons stationed at such installation, with particular emphasis upon programs under sections 1691(a)(2) and 1696(a)(2) of this title;

(3) the release from duty assignment of any such eligible person for at least one-half of the hours required for such person to enroll in a full-time program of education or training under this subchapter during such person's military service, unless, pursuant to regulations prescribed by the Secretary concerned, it is determined that such release of time is inconsistent with the interests of the national defense; and

(4) establishment of an Inter-Service and Agency Coordinating Committee, under the co-chairmanship of an Assistant Secretary of Defense and the Chief Benefits Director of the Veterans' Administration, to promote and coordinate the establishment and conduct of programs under this subchapter and other provisions of this title and the implementation of the plan submitted pursuant to this section.

(Added Pub. L. 92-540, title III, § 308, Oct. 24, 1972, 86 Stat. 1082, § 1697A, renumbered and amended Pub. L. 94-502, title II, §§ 210(3), 211(14), Oct. 15, 1976, 90 Stat. 2388, 2389.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (b), means the date of enactment of Pub. L. 92-540, which was approved Oct. 24, 1972.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502, § 211(14), substituted "official the Administrator designates" for "official he designates".

Subsec. (b). Pub. L. 94-502, § 211(14), substituted "such person's military service" for "his military service".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective on Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1641 of this title.

CHAPTER 35—SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

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1765. Children of certain Philippine veterans.
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AMENDMENTS

1976—Pub. L. 94-502, title III, § 309(a), Oct. 15, 1976, 90 Stat. 2391, substituted "Survivors' and Dependents' Educational Assistance" for "War Orphans' and Widows' Education Assistance" in the chapter heading.

1974—Pub. L. 93-508, title III, § 303(b), Dec. 3, 1974, 88 Stat. 1592 added item 1737.

1972—Pub. L. 92-540, title IV, § 405, Oct. 24, 1972, 86 Stat. 1091, substituted in item 1733 "Special assistance for the educationally disadvantaged" for "Measurement of courses", in item 1734 "Apprenticeship or other on-job training; correspondence courses" for "Overcharges by educational institutions", and in item 1736 "Specialized vocational training courses" for "Discontinuance of allowances", and struck out item 1722 "Change of program", item 1725 "Period of operation for approval", and item 1737 "Specialized vocational training courses".

1970—Pub. L. 91-219, title II, § 207(b), Mar. 26, 1970, 84 Stat. 82 inserted item 1763.

1968—Pub. L. 90-631, § 2(a)(2), (h)(1), Oct. 23, 1968, 82 Stat. 1332, 1333, added "and Widows'" following "War Orphans'" in the chapter heading, and added item 1700.

1966—Pub. L. 89-613, § 2, Sept. 30, 1966, 80 Stat. 862, added heading of Subchapter VII "Philippine Commonwealth Army and Philippine Scouts" and items 1765 and 1766.

Pub. L. 89-358, § 3(a)(10), Mar. 3, 1966, 80 Stat. 21, deleted items 1726, 1763 to 1768, and subchapter VII heading and items 1771 to 1778 thereunder.

1963—Pub. L. 88-126, § 5, Sept. 23, 1963, 77 Stat. 163, added heading of Subchapter VII "State Approving Agencies" and items 1771 to 1778.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 101, 104, 111, 243, 503, 618, 1502, 1770, 1771, 1772, 1773, 1774, 1780, 1781, 1782, 1783, 1784, 1785, 1787, 1788, 1790, 1792, 1793, 1794, 1795, 1796, 2013, 3013 of this title; title 5 section 8525; title 20 section 1070a.

SUBCHAPTER I—DEFINITIONS

§ 1700. Purpose

The Congress hereby declares that the educational program established by this chapter is for the purpose of providing opportunities for education to children whose education would otherwise be impeded or interrupted by reason of the disability or death of a parent from a disease or injury incurred or aggravated in the Armed Forces after the beginning of the Spanish-American War, and for the purpose of aiding such children in attaining the educational status which they might normally have aspired to and obtained but for the disability or death of such parent. The Congress further declares that the educational program extended to the surviving spouses of veterans who died of service-connected disabilities and to spouses of veterans with a service-connected total disability permanent in nature is for the purpose of assisting them in preparing to support themselves and their families at a standard of living level which the veteran, but for the veteran's death or service disability, could have expected to provide for the veteran's family.

(Added Pub. L. 90-631, § 2(a)(1), Oct. 23, 1968, 82 Stat. 1331, and amended Pub. L. 94-502, title III, § 310(1), Oct. 15, 1976, 90 Stat. 2391.)

AMENDMENTS

1976—Pub. L. 94-502 substituted "surviving spouses" for "widows", "spouses" for "wives", and "the veteran's" for "his" in two places.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE

Section effective on the first day of the second calendar month which begins after Oct. 23, 1968, see section 6(a) of Pub. L. 90-631, set out as an Effective Date of 1968 Amendment note under section 1502 of this title.

§ 1701. Definitions

(a) For the purposes of this chapter—

(1) The term "eligible person" means—

(A) a child of a person who—

(i) died of a service-connected disability,

(ii) has a total disability permanent in nature resulting from a service-connected disability, or who died while a disability so evaluated was in existence, or

(iii) at the time of application for benefits under this chapter is a member of the Armed Forces serving on active duty listed, pursuant to section 556 of title 37, United States Code, and regulations issued thereunder by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than ninety days: (A) missing in action, (B) captured in line of duty by a hostile force, or (C) forcibly detained or interned in line of duty by a foreign government or power.

(B) the surviving spouse of any person who died of a service-connected disability,

(C) the spouse of any member of the Armed Forces serving on active duty who, at the time of application for benefits under this chapter is listed, pursuant to section 556 of title 37, United States Code, and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than ninety days: (i) missing in action, (ii) captured in line of duty by a hostile force, or (iii) forcibly detained or interned in line of duty by a foreign government or power, or

(D) the surviving spouse of any person who has a total disability permanent in nature resulting from a service-connected disability, or the surviving spouse of a veteran who died while a disability so evaluated was in existence,

arising out of active military, naval, or air service after the beginning of the Spanish-American War, but only if such service did not terminate under dishonorable conditions. The standards and criteria for determining whether or not a disability arising out of such service is service connected shall be those applicable under chapter 11 of this title.

(2) The term "child" includes individuals who are married and individuals who are above the age of twenty-three years.

(3) The term "duty with the Armed Forces" as used in section 1712 of this title means (A) active duty, (B) active duty for training for a period of six or more consecutive months, or (C) active duty for training required by section 511(d) of title 10.

(4) The term "guardian" includes a fiduciary legally appointed by a court of competent jurisdiction, or any other person who has been appointed by the Administrator under section 3202 of this title to receive payment of benefits for the use and benefit of the eligible person.

(5) The term "program of education" means any curriculum or any combination of unit courses or subjects pursued at an educational institution which is generally accepted as necessary to fulfill the requirements for the attainment of a predetermined and identified educational, professional, or vocational objective.

(6) The term "educational institution" means any public or private secondary school, vocational school, correspondence school, business school, junior college, teachers' college, college, normal school, professional school, university, or scientific or technical institution, or any other institution if it furnishes education at the secondary school level or above.

(7) The term "special restorative training" means training furnished under subchapter V of this chapter.

(8) The term "total disability permanent in nature" means any disability rated total for

the purposes of disability compensation which is based upon an impairment reasonably certain to continue throughout the life of the disabled person.

(9) For the purposes of this chapter and chapter 36 of this title, the term "training establishment" means any establishment providing apprentice or other training on the job, including those under the supervision of a college or university or any State department of education, or any State apprenticeship agency, or any State board of vocational education, or any joint apprenticeship committee, or the Bureau of Apprenticeship and Training established pursuant to chapter 4C of title 29, or any agency of the Federal Government authorized to supervise such training.

(10) For the purposes of this chapter and chapter 36 of this title, the term "institution of higher learning" means a college, university, or similar institution, including a technical or business school, offering postsecondary level academic instruction that leads to an associate or higher degree if the school is empowered by the appropriate State education authority under State law to grant an associate or higher degree. When there is no State law to authorize the granting of a degree, the school may be recognized as an institution of higher learning if it is accredited for degree programs by a recognized accrediting agency. Such term shall also include a hospital offering educational programs at the postsecondary level without regard to whether the hospital grants a postsecondary degree.

(11) For the purposes of this chapter and chapter 36 of this title, the term "standard college degree" means an associate or higher degree awarded by (A) an institution of higher learning that is accredited as a collegiate institution by a recognized regional or national accrediting agency; or (B) an institution of higher learning that is a "candidate" for accreditation as that term is used by the regional or national accrediting agencies; or (C) an institution of higher learning upon completion of a course which is accredited by an agency recognized to accredit specialized degree-level programs. For the purpose of this section, the accrediting agency must be one recognized by the Commissioner of Education under the provisions of section 1775 of this title.

(b) If an eligible person has attained the person's majority and is under no known legal disability, all references in this chapter to "parent or guardian" shall refer to the eligible person.

(c) Any provision of this chapter which requires any action to be taken by or with respect to the parent or guardian of an eligible person who has not attained such person's majority, or who, having attained such person's majority, is under a legal disability, shall not apply when the Administrator determines that its application would not be in the best interest of the eligible person, would result in undue delay, or would not be administratively feasible. In such a case the Administrator, where necessary to protect the interest of the eligible person, may designate some other person (who may be the eligible person) as the person by or with respect to whom the action so required should be taken.

(d) No eligible person may be afforded educational assistance under this chapter unless such person was discharged or released after each period such person was on duty with the Armed Forces under conditions other than dishonorable, or while such person is on duty with the Armed Forces.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1193; Pub. L. 86-236, § 1, Sept. 8, 1959, 73 Stat. 471; Pub. L. 86-785, §§ 1-3, Sept. 14, 1960, 74 Stat. 1023; Pub. L. 88-361, § 1, July 7, 1964, 78 Stat. 297; Pub. L. 89-222, § 3, Sept. 30, 1965, 79 Stat. 896; Pub. L. 89-349, § 1, Nov. 8, 1965, 79 Stat. 1313; Pub. L. 89-358, § 4(j), Mar. 3, 1966, 80 Stat. 24; Pub. L. 90-631, § 2(b), (c), Oct. 23, 1968, 82 Stat. 1332; Pub. L. 91-24, § 9(a), June 11, 1969, 83 Stat. 34; Pub. L. 91-584, § 1, Dec. 24, 1970, 84 Stat. 1575; Pub. L. 92-540, title III, § 309, Oct. 24, 1972, 86 Stat. 1083; Pub. L. 93-295, title III, § 302, May 31, 1974, 88 Stat. 184; Pub. L. 94-502, title III, §§ 302, 310(2)-(5), Oct. 15, 1976, 90 Stat. 2389, 2391.)

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-502, § 310(2), substituted "surviving spouse" for "widow" and "spouse" for "wife" in two places.

Subsec. (a)(10), (11). Pub. L. 94-502, § 302, added subsec. (a)(10), (11).

Subsec. (b). Pub. L. 94-502, § 310(3), substituted "the person's" for "his" and "the eligible person" for "the eligible person himself".

Subsec. (c). Pub. L. 94-502, § 310(4), substituted "such person's" for "his" and "be the eligible person" for "be the eligible person himself" in the parenthetical phrase.

Subsec. (d). Pub. L. 94-502, § 310(5), substituted "such person" for "he" in three places.

1974—Subsec. (a)(4). Pub. L. 93-295 substituted "any other person who has been appointed by the Administrator under section 3202 of this title to receive payment of benefits for the use and benefit of the eligible person" for "any person who is determined by the Administrator in accordance with section 3202 of this title to be otherwise legally vested with the care of the eligible person".

1972—Subsec. (a)(6). Pub. L. 92-540, § 309(1), added reference to correspondence school within the definition of the term "educational institution".

Subsec. (a)(9). Pub. L. 92-540, § 309(2), added subsec. (a)(9).

1970—Subsec. (a)(1)(A). Pub. L. 91-584, § 1(3), added cl. (iii).

Subsec. (a)(1)(C). Pub. L. 91-584, § 1(5), (6), added par. (C) and redesignated former par. (C) as (D).

1969—Subsec. (a)(2). Pub. L. 91-24 substituted "the age of twenty-three years" for "the age of twenty-one years".

1968—Subsec. (a)(1). Pub. L. 90-631, § 2(b), extended the definition of the term "eligible person" to include the widow of any person who died of a service-connected disability, or the wife of any person who has a total disability permanent in nature resulting from a service-connected disability, or the widow of a veteran who died while a disability so evaluated was in existence.

Subsec. (d). Pub. L. 90-631, § 2(c), substituted provisions requiring that any eligible person seeking educational assistance under this chapter to have been discharged or released after each period he was on duty with the armed forces under conditions other than dishonorable, or while he is on duty with the armed forces, for provisions setting forth the purposes of educational assistance programs established under this chapter.

1966—Subsec. (a)(1). Pub. L. 89-358, § 4(j)(3), struck out "and prior to the end of the induction period" following "Spanish-American War".

Subsec. (a)(3)(C). Pub. L. 89-358, § 4(j)(1), substituted "section 511(d) of title 10" for "section 1013(c)(1) of title 50".

Subsec. (a)(8) to (10). Pub. L. 89-358, § 4(j)(2), redesignated former par. (10) as (8) and struck out par. (8) including the Canal Zone in the term "State" (now incorporated in section 101(20) of this title) and par. (9) defining the term "induction period".

Subsec. (d). Pub. L. 89-358, § 4(j)(3), struck out "and prior to the end of the induction period" following "Spanish-American War".

1965—Subsec. (a)(1). Pub. L. 89-349, § 1(a), (b), generally amended par (1) and, among other changes, substituted "after the beginning of the Spanish-American War and prior to the end of the induction period" for "during the Spanish-American War, World War I, World War II, the Korean conflict, or the induction period" in the first sentence thereof.

Pub. L. 89-222 substituted "such service" the second time it appears for "service during the Spanish-American War, World War I, World War II, or the Korean conflict" and eliminated provisions which prescribed the applicable standards and criteria for determining whether or not a disability arising out of service during the induction period is service-connected.

Subsec. (a)(9). Pub. L. 89-349, § 1(c), deleted provisions which included the period beginning Sept. 16, 1940, and ending Dec. 6, 1941, and the period beginning Jan. 1, 1947, and ending June 26, 1950, within the term "induction period".

Subsec. (d). Pub. L. 89-349, § 1(d), substituted "after the beginning of the Spanish-American War and prior to the end of the induction period" for "during the Spanish-American War, World War I, World War II, the Korean conflict, or the induction period".

1964—Subsec. (a)(1). Pub. L. 88-361, § 1(a), included the child of a person who has a service-connected disability, or who died while such disability existed.

Subsec. (a)(10). Pub. L. 88-361, § 1(b), added par. (10).

Subsec. (d). Pub. L. 88-361, § 1(c), inserted disability or preceding "death" wherever appearing.

1960—Subsec. (a)(1). Pub. L. 86-785, § 1, substituted "the Korean conflict, or the induction period" for "or the Korean conflict", inserted "arising out of service during the Spanish-American War, World War I, World War II, or the Korean conflict" following "whether or not a disability", and added the sentence relating to the criteria for determining whether a disability arising out of service during the induction period is service connected.

Subsec. (a)(9). Pub. L. 86-785, § 2, added par. (9).

Subsec. (d). Pub. L. 86-785, § 3, substituted "the Korean conflict, or the induction period" for "or the Korean conflict".

1959—Subsec. (a)(1). Pub. L. 86-236 inserted "the Spanish-American War".

Subsec. (d). Pub. L. 86-236 inserted "the Spanish-American War".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-295 effective on the first day of the second calendar month following May 31, 1974, see section 401 of Pub. L. 93-295, set out as an Effective Date 1974 Amendment note under section 314 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-631 effective on the first day of the second calendar month which begins after Oct. 23, 1968, see section 6(a) of Pub. L. 90-631, set out as an Effective Date of 1968 Amendment note under section 1502 of this title.

ELIGIBLE PERSON

Pub. L. 86-785, § 5, Sept. 14, 1960, 74 Stat. 1024, as amended by Pub. L. 87-815, § 2(b), Oct. 15, 1962, 76 Stat. 927, which contained a savings clause which granted five years of educational training to certain children of veterans dying of disabilities incurred subsequent to the Korean War, was repealed by Pub. L. 91-24, § 14(c), June 11, 1969, 83 Stat. 35, effective June 11, 1969, except as to any indebtedness which may be due the Government as the result of any benefits granted thereunder.

CHILDREN OF SPANISH-AMERICAN WAR VETERANS

Period of eligibility for educational assistance of children of Spanish-American War Veterans, see section 2 of Pub. L. 86-236, set out as a note under section 1712 of this title.

TERMINATION OF ELIGIBILITY PERIOD

Termination of eligibility period for a wife or widow, or an eligible person eight years from Oct. 24, 1972, see section 604 of Pub. L. 92-540, set out as a note under section 1712 of this title.

The period referred to in section 1712 of this title as ending five years from Nov. 8, 1965, in the case of any individual who is an "eligible person" within the meaning of subsec. (a)(1) of this section solely by virtue of the amendment made by section 1 of Pub. L. 89-349 to this section, and who is above the age of seventeen years and below the age of twenty-three years on Nov. 8, 1965, see section 2 of Pub. L. 89-349, set out as a note under section 1712 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 240, 1711, 1712, 1720, 1763, 1765, 1786, 1787 of this title.

SUBCHAPTER II—ELIGIBILITY AND ENTITLEMENT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1798 of this title.

§ 1710. Eligibility and entitlement generally

Each eligible person shall, subject to the provisions of this chapter, be entitled to receive educational assistance.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1194.)

§ 1711. Duration of educational assistance

(a) Each eligible person shall be entitled to educational assistance under this chapter for a period not in excess of 45 months (or to the equivalent thereof in part-time training).

(b) If any eligible person pursuing a program of education, or of special restorative training, under this chapter ceases to be an "eligible person" because—

(1) the parent or spouse from whom eligibility is derived is found no longer to have a "total disability permanent in nature", as defined in section 1701(a)(8) of this title,

(2) the parent or spouse from whom eligibility is derived based upon the provisions of section 1701(a)(1)(A)(iii) or 1701(a)(1)(C) of this title is no longer listed in one of the categories specified therein, or

(3) the spouse, as an eligible person under section 1701(a)(1)(D) of this title, is divorced, without fault on such person's part, from the person upon whose disability such person's eligibility is based,

then such eligible person (if such person has sufficient remaining entitlement) may, nevertheless, be afforded educational assistance under this chapter until the end of the quarter or semester for which enrolled if the educational institution in which such person is enrolled is operated on a quarter or semester system, or if the educational institution is not so operated until the end of the course, or until 12 weeks have expired whichever first occurs.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1194; Pub. L. 88-361, § 2, July 7, 1964, 78 Stat. 297; Pub. L. 89-358, § 4(k), Mar. 3, 1966, 80 Stat. 24; Pub. L. 90-631, §§ 1(c), 2(d), Oct. 23, 1968, 82 Stat. 1331, 1332; Pub. L. 91-24, § 9(b), June 11, 1969, 83 Stat. 34; Pub. L. 91-584, § 2, Dec. 24, 1970, 84 Stat. 1575; Pub. L. 94-502, title III, §§ 303, 310(6), Oct. 15, 1976, 90 Stat. 2390, 2391.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502, § 303(1), substituted "45 months" for "thirty-six months".

Subsec. (b). Pub. L. 94-502, §§ 303(2), 310(6), substituted "the spouse" for "she", "such person's" for "her" in two places, "such person" for "he or she" in two places, and "12 weeks" for "nine weeks".

1970—Subsec. (b). Pub. L. 91-584 added par. (2). Former par. (2) redesignated par. (3), and in par. (3) so redesignated, substituted "1701(a)(1)(D)" for "1701(a)(1)(C)".

1969—Subsec. (b)(1). Pub. L. 91-24 substituted "section 1701(a)(8) of this title" for "section 1701(a)(10) of this title".

1968—Subsec. (b). Pub. L. 90-631, §§ 1(c), 2(d), redesignated former subsec. (d) as (b), and, as so redesignated, extended applicability of subsec. from any child pursuing a program of education or training to any eligible person pursuing such program, and expanded causes of persons ceasing to be "eligible persons" to include spouses no longer found to have a "total disability permanent in nature" as defined under section 1701(a)(10) of this title, and the individual, as an eligible person under section 1701(a)(1)(C) of this title, is divorced, without fault on her part, from the person upon whose disability her eligibility is based. Former subsec. (b), setting forth reductions in the period of entitlement of an eligible person, was struck out.

Subsec. (c). Pub. L. 90-631, § 1(c), struck out subsec. (c) which required an eligible person to elect either educational assistance or vocational rehabilitation when such person is entitled to both, or becomes entitled to vocational rehabilitation after receiving educational assistance.

Subsec. (d). Pub. L. 90-631, § 1(c), redesignated former subsec. (d) as (b).

1966—Subsec. (b). Pub. L. 89-358 substituted "34" for "33" and inserted "or under chapter 33 of this title as in effect before February 1, 1965".

1964—Subsec. (d). Pub. L. 88-361 added subsec. (d).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment of subsec. (a) by Pub. L. 94-502 effective Oct. 1, 1976, see section 703(a) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

Amendment of subsec. (b) by section 303(2) of Pub. L. 94-502, substituting "12 weeks" for "nine weeks", effective Oct. 1, 1976, see section 703(a) of Pub. L. 94-502.

Amendment of subsec. (b) by section 310(6) of Pub. L. 94-502, substituting "the spouse" for "she", "such person's" for "her" wherever appearing, and "such person" for "he or she", wherever appearing, effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-631 effective on the first day of the second calendar month which begins after Oct. 23, 1968, see section 6(a) of Pub. L. 90-631, set out as an Effective Date of 1968 Amendment note under section 1502 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1712, 1733, 1741 of this title.

§ 1712. Periods of eligibility

(a) The educational assistance to which an eligible person (within the meaning of section 1701(a)(1)(A) is entitled under section 1711 of this title or subchapter V of this chapter may be afforded the person during the period beginning on the person's eighteenth birthday, or on the successful completion of the person's secondary schooling, whichever first occurs, and ending on the person's twenty-sixth birthday, except that—

(1) if the person is above the age of compulsory school attendance under applicable State law, and the Administrator determines that the person's best interests will be served thereby, such period may begin before the person's eighteenth birthday;

(2) if the person has a mental or physical handicap, and the Administrator determines that the person's best interests will be served by pursuing a program of special restorative training or a specialized course of vocational training approved under section 1736 of this title, such period may begin before the person's eighteenth birthday, but not before the person's fourteenth birthday;

(3) if the Administrator first finds that the parent from whom eligibility is derived has a service-connected total disability permanent in nature, or if the death of the parent from whom eligibility is derived occurs, after the eligible person's eighteenth birthday but before the person's twenty-sixth birthday, then (unless paragraph (4) applies) such period shall end 8 years after, whichever date last occurs (A) the date on which the Administrator first finds that the parent from whom eligibility is derived has a service-connected total disability permanent in nature, or (B) the date of death of the parent from whom eligibility is derived;

(4) if the person serves on duty with the Armed Forces as an eligible person after the person's eighteenth birthday but before the person's twenty-sixth birthday, then such period shall end 8 years after the person's first discharge or release from such duty with the Armed Forces (excluding from such 8 years all periods during which the eligible person served on active duty before August 1, 1962, pursuant to (A) a call or order thereto issued to the person as a Reserve after July 30, 1961, or (B) an extension of enlistment, appointment, or period of duty with the Armed Forces pursuant to section 2 of Public Law 87-117); however, in no event shall such period be extended beyond the person's thirty-first birthday by reason of this paragraph; and

(5)(A) if such person is enrolled in an educational institution regularly operated on the

quarter or semester system and such period ends during a quarter or semester, such period shall be extended to the end of the quarter or semester; or

(B) if such person is enrolled in an educational institution operated on other than a quarter or semester system and such period ends after a major portion of the course is completed, such period shall be extended to the end of the course, or until 12 weeks have expired, whichever first occurs.

(b) No person made eligible by section 1701(a)(1)(B) or (D) of this chapter may be afforded educational assistance under this chapter beyond 10 years after whichever last occurs:

(1) the date on which the Administrator first finds the spouse from whom eligibility is derived has a service-connected total disability permanent in nature, or

(2) the date of death of the spouse from whom eligibility is derived.

(c) Notwithstanding the provisions of subsection (a) of this section, an eligible person may be afforded educational assistance beyond the age limitation applicable to such person under such subsection if (1) such person suspends pursuit of such person's program of education after having enrolled in such program within the time period applicable to such person under such subsection, (2) such person is unable to complete such program after the period of suspension and before attaining the age limitation applicable to such person under such subsection, and (3) the Administrator finds that the suspension was due to conditions beyond the control of such person; but in no event shall educational assistance be afforded such person by reason of this subsection beyond the age limitation applicable to such person under subsection (a) of this section plus a period of time equal to the period such person was required to suspend the pursuit of such person's program, or beyond such person's thirty-first birthday, whichever is earlier.

(d) The term "first finds" as used in this section means the effective date of the rating or date of notification to the veteran from whom eligibility is derived establishing a service-connected total disability permanent in nature whichever is more advantageous to the eligible person.

(e) No person made eligible by section 1701(a)(1)(C) of this title may be afforded educational assistance under this chapter beyond 10 years after the date on which the spouse was listed by the Secretary concerned in one of the categories referred to in such section or the date of enactment of this subsection, whichever last occurs.

(f) Any entitlement used by any eligible person as a result of eligibility under the provisions of section 1701(a)(1)(A)(iii) or 1701(a)(1)(C) of this title shall be deducted from any entitlement to which such person may subsequently become entitled under the provisions of this chapter.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1194; Pub. L. 87-815, § 2(a), Oct. 15, 1962, 76 Stat. 926; Pub. L. 87-819, § 2, Oct. 15, 1962, 76 Stat. 935; Pub. L. 88-361, § 3, July 7, 1964, 78 Stat. 297; Pub. L. 90-77, title III, § 307(a), Aug. 31, 1967, 81 Stat. 189; Pub. L. 90-631, § 2(e), Oct. 23, 1968, 82 Stat. 1333; Pub. L. 91-219, title II, § 208, Mar. 26, 1970, 84 Stat. 83; Pub. L. 91-584, § 3, Dec. 24, 1970, 84 Stat. 1575; Pub. L. 92-540, title IV, § 402(1), Oct. 24, 1972, 86 Stat. 1090; Pub. L. 93-337, § 2, July 10, 1974, 88 Stat. 292; Pub. L. 94-502, title III, §§ 304, 310(7)-(9), Oct. 15, 1976, 90 Stat. 2390, 2391.)

REFERENCES IN TEXT

Section 2 of Public Law 87-117, referred to in subsec. (a)(4), was set out as a note under section 263 of Title 10, Armed Forces.

The date of enactment of this subsection, referred to in subsec. (e), is Dec. 24, 1970, the date of enactment of section 3 of Pub. L. 91-584 which added this subsection.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502, §§ 304(1), (2), 310(7), substituted "the person" for "he" and "him" and "the person's" for "his" respectively, in the provision preceding cl. (1), and in cls. (1), (2), (3), and (4), in cls. (3) and (4) "8 years" for "five years", and cl. (5), "such person" for "he", "a quarter or semester" for "the last half of a quarter or semester", "period ends after a major portion of the course is completed" for "periods ends during the last half of the course", and "12 weeks" for "nine weeks".

Subsec. (c). Pub. L. 94-502, § 310(8), substituted "such person" for "him" and "he" wherever appearing, and "such person's" for "his" wherever appearing.

Subsec. (d). Pub. L. 94-502, § 304(3), struck out subsec. (d), which authorized educational assistance to an eligible person beyond the age limits applicable to him under subsec. (a) of this section by a period of time equivalent to the period of time between his eighteenth birthday or the date of his application, whichever was later, and the date of approval of his application, but in no event beyond his thirty-first birthday. Former subsec. (e) redesignated (d).

Subsec. (e). Pub. L. 94-502, §§ 304(3), 310(9), redesignated former subsec. (f) as (e), and as so redesignated, substituted "the spouse" for "her spouse". Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 94-502, §§ 304(3), 310(9), redesignated former subsec. (g) as (f), and as so redesignated, substituted "such person" for "he". Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 94-502, § 304(3), redesignated former subsec. (g) as (f).

1974—Subsec. (b). Pub. L. 93-337, § 2(1), substituted "may be afforded educational assistance under this chapter beyond 10 years" for "may be afforded educational assistance under this chapter beyond eight years".

Subsec. (f). Pub. L. 93-337, § 2(2), substituted "may be afforded educational assistance under this chapter beyond 10 years" for "may be afforded educational assistance under this chapter beyond eight years".

1972—Subsec. (a)(2). Pub. L. 92-540 substituted reference to section 1736 of this title for reference to section 1737 of this title.

1970—Subsec. (a)(3). Pub. L. 91-219, § 208(1), substituted "last occurs" for "first occurs".

Subsec. (b). Pub. L. 91-584, § 3(1), substituted "1701(a)(1)(B) or (D)" for "1701(a)(1)(B) or (C)".

Subsec. (e). Pub. L. 91-219, § 208(2), added subsec. (e).

Subsecs. (f), (g). Pub. L. 91-584, § 3(2), added subsecs. (f) and (g).

1968—Subsec. (a). Pub. L. 90-631, § 2(e)(1), added "(within the meaning of section 1701(a)(1)(A))" following "to which an eligible person".

Subsec. (b). Pub. L. 90-631, § 2(e)(2), substituted provisions that no person made eligible by section 1701(a)(1)(B) or (C) may be afforded educational assistance under this chapter beyond 8 years after whichever of the specified events last occurs for provisions that no eligible person may be afforded educational assistance

under this chapter unless he was discharged or released after each period he was on duty with the armed forces under conditions other than dishonorable, or while he is on duty with the armed forces.

1967—Subsec. (a). Pub. L. 90-77 substituted "twenty-sixth" for "twenty-third" birthday in the text preceding par. (1) and in pars. (3) and (4).

1964—Subsec. (a)(3). Pub. L. 88-361, § 3(a), inserted provisions relating to parents with a service-connected total disability permanent in nature.

Subsec. (d). Pub. L. 88-361, § 3(b), added subsec. (d).

1962—Subsec. (a). Pub. L. 87-815, among other changes, eliminated from par. (3), provisions which it incorporated into par. (4), added to such par. (4) the exclusion from the computation of the five year period, of all periods during which the person served on active duty before Aug. 1, 1962, pursuant to a call as a Reserve after July 30, 1961, or an extension of duty pursuant to Pub. L. 87-117, and redesignated former par. (4) as (5).

Subsec. (c). Pub. L. 87-819 added subsec. (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment of subsec. (a) by section 304(1) of Pub. L. 94-502, substituting "8 years" for "five years" in three places and "major portion of the course is completed" for "periods ends during the last half of the course", effective Oct. 1, 1976, see section 703(a) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

Amendment of subsec. (a) by section 310(7) of Pub. L. 94-502, substituting "the person" for "he" and "him" wherever appearing and "the person's" for "his" wherever appearing, effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

Amendment of subsec. (c) by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502.

Repeal of former subsec. (d) and redesignation of former subsec. (e) as (d) effective Oct. 1, 1976, see section 703(a) of Pub. L. 94-502.

Redesignation of former subsec. (f) as (e) by section 304(3) of Pub. L. 94-502 effective Oct. 1, 1976, and amendment of subsec. (e), as so redesignated, by section 310(9), of Pub. L. 94-502, effective Oct. 15, 1976, see section 703(a), (b) of Pub. L. 94-502.

Redesignation of former subsec. (g) as (f) by section 304(3) of Pub. L. 94-502 effective Oct. 1, 1976, and amendment of subsec. (f), as so redesignated, by section 310(9) of Pub. L. 94-502 effective Oct. 15, 1976, see section 703(a), (b) of Pub. L. 94-502.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-631 effective on the first day of the second calendar month which begins after Oct. 23, 1968, see section 6(a) of Pub. L. 60-631, set out as an Effective Date of 1968 Amendment note under section 1502 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

TERMINATION OF ELIGIBILITY PERIOD FOR A WIFE, WIDOW, OR ELIGIBLE PERSON

Section 604 of Pub. L. 92-540, as amended by Pub. L. 93-337, § 3, July 10, 1974, 88 Stat. 292, provided that:

"(a) Notwithstanding the provisions of section 1712(b) of title 38, United States Code, a wife or widow (1) eligible to pursue a program of education exclusively by correspondence by virtue of the provisions of section 1786 of such title (as added by section 316 of this Act) or (2) entitled to receive the benefits of subsection (a) of section 1733 of this title (as added by section 313 of this Act), shall have 10 years from the date of the enactment of this Act [Oct. 24, 1972] in which to complete such a program of education or receive such benefits.

"(b) Notwithstanding the provisions of section 1712(a) or 1712(b) of title 38, United States Code, an eligible person, as defined in section 1701(a)(1) of such title, who is entitled to pursue a program of apprenticeship or other on-job training by virtue of the provisions of section 1787 of such title (as added by section 316 of this Act) shall have 10 years from the date of the enactment of this Act [Oct. 24, 1972] in which to complete such a program of training, except that an eligible person defined in section 1701(a)(1)(A) of such title may not be afforded educational assistance beyond his thirty-first birthday."

COMMENCEMENT DATE OF DELIMINTING PERIOD IN CASES OF DEATH OR OF SERVICE-CONNECTED TOTAL DISABILITY PERMANENT IN NATURE OCCURRING BEFORE OCTOBER 23, 1968

Section 2(f) of Pub. L. 90-631 provided that: "In the case of any person who is an eligible person by reason of subparagraph (B) or (C) of section 1701(a)(1) of title 38, United States Code (as added by subsection (b) of this section), if the date of death or the date of the determination of service-connected total disability permanent in nature of the person from whom eligibility is derived occurred before the effective date of this section [see Effective Date of 1968 Amendment note set out above], the eight-year [now ten year] delimiting period referred to in section 1712(b) of such title (as amended by subsection (e)(2) of this section) shall run from such effective date."

TERMINATION OF ELIGIBILITY PERIODS

Section 307(b) of Pub. L. 90-77 provided that anyone made eligible for educational assistance under this chapter by Pub. L. 90-77, and who, on the effective date of Pub. L. 90-77, was below the age of twenty-six, was to remain eligible for said assistance until the expiration of the five year period beginning on the effective date of Pub. L. 90-77 as set out in the Effective Date of 1967 Amendment note under section 101 of this title, excluding from such period any time which elapsed between applying for the assistance and the determination of eligibility by the Administrator of Veterans' Affairs, and also provided that the period of eligibility was to terminate regardless of the five year period when the eligible person reached the age of thirty-one.

Pub. L. 89-349, § 2, Nov. 8, 1965, 79 Stat. 1313, provided that anyone made eligible for educational assistance under section 1701 of this title by reason of the amendment of that section by Pub. L. 89-349, and who was between the ages of seventeen and twenty-three on Nov. 8, 1965, was to remain eligible for said assistance until the expiration of the five year period beginning on Nov. 8, 1965.

Section 5 of Pub. L. 88-361 provided that anyone made eligible for educational assistance under section 1701 of this title by reason of the amendment of that section by Pub. L. 88-361, and who was between the ages of seventeen and twenty-three on July 7, 1964, was to remain eligible for said assistance until the expiration of the five year period beginning on July 7, 1964, excluding from such period any time which elapsed between applying for the assistance and the determination of eligibility by the Administrator of Veterans' Affairs, and also provided that the period of eligibility was to terminate regardless of the five year period when the eligible person reached the age of thirty-one.

EXTENSION OF PERIOD FOR COMPLETION OF EDUCATION

Pub. L. 87-377, § 2, Oct. 4, 1961, 75 Stat. 806, which contained a savings clause which granted five years of educational training to certain children in the Philippines, was repealed by Pub. L. 91-24, § 14(d), June 11, 1969, 83 Stat. 35, effective June 11, 1969, except as to any indebtedness which may be due the Government as the result of any benefits granted thereunder.

CHILDREN OF SPANISH-AMERICAN WAR VETERANS

Pub. L. 86-236, § 2, Sept. 8, 1959, 73 Stat. 471, as amended by Pub. L. 87-815, § 2(b), Oct. 15, 1962, 76 Stat. 927, which contained a savings clause which granted five years of educational training to certain children of Spanish-American War veterans, was repealed by Pub. L. 91-24, § 14(b), June 11, 1969, 83 Stat. 35, effective June 11, 1969, except as to any indebtedness which may be due the Government as the result of any benefits granted thereunder.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701, 1765 of this title.

§ 1713. Application

The parent or guardian of a person or the eligible person if such person has attained legal majority for whom educational assistance is sought under this chapter shall submit an application to the Administrator which shall be in such form and contain such information as the Administrator shall prescribe. If the Administrator finds that the person on whose behalf the application is submitted is an eligible person, the Administrator shall approve the application provisionally. The Administrator shall notify the parent or guardian or eligible person (if the person has attained legal majority) of the provisional approval or of the disapproval of the application.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1195; Pub. L. 94-502, title III, § 305, Oct. 15, 1976, 90 Stat. 2390.)

AMENDMENTS

1976—Pub. L. 94-502 added reference to eligible person who have attained legal majority and substituted "the Administrator shall approve" for "he shall approve".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

§ 1714. Processing of applications

(a) Further processing of an application for educational assistance and the award of such assistance shall be pursuant to the requirements of subchapters III and IV of this chapter unless the parent or guardian requests special restorative training for the eligible person, in which case the application will be processed under subchapter V of this chapter.

(b) If the request for special restorative training is approved, educational assistance will be afforded pursuant to the terms of subchapter V of this chapter. If the request for special restorative training is disapproved, or if approved the restorative training is completed or discontinued, any educational assistance subsequently afforded will be in accordance with subchapters III and IV of this chapter.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1195.)

SUBCHAPTER III—PROGRAM OF EDUCATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1714 of this title.

§ 1720. Development of educational plan

(a) Upon provisional approval of an application for educational assistance for a person eligible within the meaning of section 1701(a)(1)(A), the Administrator shall arrange for, and the eligible person shall take advantage of, educational or vocational counseling to assist the parent or guardian and the eligible person in selecting such person's educational, vocational, or professional objective and in developing such person's program of education. Such counseling shall not be required where the eligible person has been accepted for, or is pursuing, courses which lead to a standard college degree, at an approved institution. During, or after, such counseling, the parent or guardian shall prepare for the eligible person an educational plan which shall set forth the selected objective, the proposed program of education, a list of the educational institutions at which such program would be pursued, an estimate of the sum which would be required for tuition and fees in completion of such program, and such other information as the Administrator shall require. This educational plan shall be signed by the parent or guardian and shall become an integral part of the application for educational assistance under this chapter.

(b) The Administrator may, on request, arrange for educational counseling for persons eligible for educational assistance under section 1701(a)(1)(B), (C), or (D) of this chapter.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1195; Pub. L. 90-631, § 2(g), Oct. 23, 1968, 82 Stat. 1333; Pub. L. 91-584, § 4, Dec. 24, 1970, 84 Stat. 1576; Pub. L. 92-540, title III, § 310, Oct. 24, 1972, 86 Stat. 1083; Pub. L. 94-502, title III, § 310(10), Oct. 15, 1976, 90 Stat. 2391.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502 substituted "such person's" for "his" in two places.

1972—Subsec. (a). Pub. L. 92-540 added provisions exempting the eligible person from counseling where such person has been accepted for, or is pursuing, courses which lead to a standard college degree at an approved institution.

1970—Subsec. (b). Pub. L. 91-584 substituted "section 1701(a)(1)(B), (C), or (D)" for "section 1701(a)(1)(B) or (C)".

1968—Subsec. (a). Pub. L. 90-631, § 2(g)(1), (2), designated existing provisions as subsec. (a), and, as so designated, added "for a person eligible within the meaning of section 1701(a)(1)(A)" following "for educational assistance".

Subsec. (b). Pub. L. 90-631, § 2(g)(3), added subsec. (b).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-631 effective on the first day of the second calendar month which begins after Oct. 23, 1968, see section 6(a) of Pub. L. 90-631, set out as an Effective Date of 1968 Amendment note under section 1502 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1721, 1761 of this title.

§ 1721. Final approval of application

The Administrator shall finally approve an application if the Administrator finds (1) that section 1720 of this title has been complied with, (2) that the proposed program of education constitutes a "program of education" as that term is defined in this chapter, (3) that the eligible person is not already qualified, by reason of previous education or training, for the educational, professional, or vocational objective for which the courses of the program of education are offered, and (4) that it does not appear that the pursuit of such program would violate any provision of this chapter.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1196; Pub. L. 94-502, title III, § 310(11), Oct. 15, 1976, 90 Stat. 2391.)

AMENDMENTS

1976—Pub. L. 94-502 substituted "if the Administrator finds" for "if he finds".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective on Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

[§ 1722. Repealed. Pub. L. 92-540, title IV, § 402(2), Oct. 24, 1972, 86 Stat. 1090]

Section, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1196, related to change of program by the eligible person. See now section 1791 of this title.

§ 1723. Disapproval of enrollment in certain courses

(a) The Administrator shall not approve the enrollment of an eligible person in—

(1) any bartending course or personality development course;

(2) any sales or sales management course which does not provide specialized training within a specific vocational field, or in any other course with a vocational objective, unless the eligible person or the institution offering such course submits justification showing that at least one-half of the persons who completed such course over the preceding two-year period, and who are not unavailable for employment, have been employed in the occupational category for which the course was designed to provide training (but in computing the number of persons who completed such course over any such two-year period, there shall not be included the number of persons who completed such course with assistance under this title while serving on active duty);

(3) any type of course which the Administrator finds to be avocational or recreational in character (or the advertising for which the Administrator finds contains significant avocational or recreational themes) unless the eligible person submits justification showing that the course will be a bona fide use in the pursuit of the person's present or contemplated business or occupation; or

(4) any independent study program except one leading to a standard college degree.

(b) The Administrator shall not approve the enrollment of an eligible person in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible person is seeking.

(c) The Administrator shall not approve the enrollment of an eligible person in any course to be pursued by correspondence (except as provided in section 1786 of this title), open circuit television (except as herein provided), or a radio, or any course to be pursued at an educational institution not located in a State or in the Republic of the Philippines (except as herein provided). The Administrator may approve the enrollment of an eligible person in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through the medium of open circuit televised instruction, if the major portion of the course requires conventional classroom or laboratory attendance. The Administrator may approve the enrollment at an educational institution which is not located in a State or in the Republic of the Philippines if such program is pursued at an approved educational institution of higher learning. The Administrator in the Administrator's discretion may deny or discontinue the educational assistance under this chapter of any eligible person in a foreign educational institution if the Administrator finds that such enrollment is not in the best interest of the eligible person or the Government.

(d) The Administrator shall not approve the enrollment of an eligible person in any course which is to be pursued as a part of such person's regular secondary school education (except as provided in section 1733 of this title), but this subsection shall not prevent the enrollment of an eligible person in a course not leading to a standard college degree if the Administrator finds that such person has ended such person's secondary school education (by completion or otherwise) and that such course is a specialized vocational course pursued for the purpose of qualifying in a bona fide vocational objective.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1196; Pub. L. 86-785, § 4, Sept. 14, 1960, 74 Stat. 1024; Pub. L. 87-546, July 25, 1962, 76 Stat. 216; Pub. L. 91-219, title II, § 209, Mar. 26, 1970, 84 Stat. 83; Pub. L. 92-540, title III, § 311, Oct. 24, 1972, 86 Stat. 1083; Pub. L. 93-508, title II, § 207, Dec. 3, 1974, 88 Stat. 1583; Pub. L. 94-502, title III, §§ 306, 310(12)-(14), Oct. 15, 1976, 90 Stat. 2390, 2392.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502, §§ 306, 310(12), substituted "the Administrator finds contains" for "he finds contains" and added cl. (4).

Subsec. (c). Pub. L. 94-502, § 310(13), substituted "the Administrator's" for "his" and "if the Administrator finds" for "if he finds".

Subsec. (d). Pub. L. 94-502, § 310(14), substituted "such person's" for "his" in two places.

1974—Subsec. (a)(2). Pub. L. 93-508, § 207(1), substituted "or in any other course with a vocational objective, unless the" for "unless the", "who completed" for "completing", and ", and who are not unavailable for employment, have been employed in the occupational category for which the course was designed to provide training" for "have been employed in the sales or sales management field", and added parenthetical provisions relating to the exclusion of persons who completed the course with assistance under this title in the

computation of the number of people who completed the course.

Subsec. (a)(3). Pub. L. 93-508, § 207(2), substituted "in character (or the advertising for which he finds contains significant avocational or recreational themes) unless the" for "in character unless the".

Subsec. (c). Pub. L. 93-508, § 207(3), substituted "an eligible person in any course to be" for "an eligible person in any course of institutional on-farm training, any course to be".

Subsec. (d). Pub. L. 93-508, § 207(4), substituted "course not leading to a standard college degree if the" for "course to be pursued below the college level if the".

1972—Subsec. (c). Pub. L. 92-540, § 311(1), struck out prohibition on approval by the Administrator of the enrollment of an eligible person in any course of apprentice or other training on the job, added provision authorizing approval of correspondence courses as provided in section 1786 of this title, and substituted provision relating to approval by the Administrator of enrollment at an educational institution not located in a State or the Republic of the Philippines and provision authorizing the Administrator to deny or discontinue assistance, for provisions setting forth the criteria for approval by the Administrator of enrollment in a foreign educational institution in the case of any eligible person.

Subsec. (d). Pub. L. 92-540, § 311(2), added "(except as provided in section 1733 of this title)" following "regular secondary school education".

1970—Subsec. (a). Pub. L. 91-219 struck out "dancing course" from the enumeration of non-approved courses, added provisions directing the Administrator not to approve any enrollment in any sales or sales management course with some exceptions, and struck out reference to photography, entertainment, music, and enumerated sports or athletic course.

1962—Subsec. (c). Pub. L. 87-546 authorized the Administrator to approve enrollment in foreing educational institutions if the subjects to be taken are part of and creditable towards completion of an approved course in a "principal institution", the tuition and fees of the foreign institution are paid by the "principal institution", and such institution agrees to submit enrollment certificates and monthly certifications as to attendance, conduct, and progress to the Veterans' Administration.

1960—Subsec. (c). Pub. L. 86-785 substituted "open circuit television (except as herein provided)" for "television", and authorized the Administrator to approve enrollment in a course pursued in residence, leading to a standard college degree, which utilizes open circuit televised instruction, if the major portion of the course requires conventional classroom or laboratory attendance.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

§ 1724. Discontinuance for unsatisfactory progress

The Administrator shall discontinue the educational assistance allowance on behalf of an eligible person if, at any time, the Administrator finds that according to the regularly prescribed standards and practices of the educational institution such person is attending, the person's conduct or progress is unsatisfactory. Unless the Administrator finds there are mitigating circumstances, progress will be considered unsatisfactory at any time an eligible person is not progressing at a rate that will permit such person to graduate within the approved length of the course based on the training time as certified to the Veterans' Administration. The Administrator may renew the payment of the educational assistance allowance only if the Administrator finds that—

(1) the cause of the unsatisfactory conduct or progress of the eligible person has been removed; and

(2) the program which the eligible person now proposes to pursue (whether the same or revised) is suitable to the person's aptitudes, interests, and abilities.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1197; Pub. L. 94-502, title III, §§ 307, 310(15), Oct. 15, 1976, 90 Stat. 2390, 2392.)

AMENDMENTS

1976—Pub. L. 94-502 substituted "such person is attending" for "he is attending", "the Administrator finds that" for "he finds that", and "the person's" for "his" in two places, and added provision specifying progress as unsatisfactory when the veteran will not be able to graduate within the approved length of the course.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 307 of Pub. L. 94-502, specifying progress as unsatisfactory when the veteran will not be able to graduate within the approved length of the course, effective Dec. 1, 1976, see section 703(c) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

Amendment by section 310(15) of Pub. L. 94-502, substituting "such person is attending" for "he is attending", "the Administrator finds that" for "he finds that", and "the person's" for "his" in two places, effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

[§ 1725. Repealed. Pub. L. 92-540, title IV, § 402(2), Oct. 24, 1972, 86 Stat. 1090]

Section, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1197, related to the period of operation for approval by the Administrator. See now section 1789 of this title.

[§ 1726. Repealed. Pub. L. 89-358, § 3(a)(3), Mar. 3, 1966, 80 Stat. 20]

Section, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1201, provided for control by agencies of the United States and is now covered by section 1789 of this title.

SUBCHAPTER IV—PAYMENTS TO ELIGIBLE PERSONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1714 of this title.

§ 1731. Educational assistance allowance

(a) The Administrator shall, in accordance with the provisions of chapter 36 of this title, pay to the parent or guardian of each eligible person who is pursuing a program of education under this chapter, and who applies therefor on behalf of such eligible person, an educational assistance allowance to meet, in part, the expenses of the eligible person's subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

(b) No educational assistance allowance shall be paid on behalf of an eligible person enrolled

in a course in an educational institution which does not lead to a standard college degree for any period until the Administrator shall have received—

(1) from the eligible person a certification as to the person's actual attendance during such period; and

(2) from the educational institution, a certification, or an endorsement on the eligible person's certificate, that the person was enrolled in and pursuing a course of education during such period.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1197; Pub. L. 89-358, § 4(*l*), Mar. 3, 1966, 80 Stat. 24; Pub. L. 92-540, title III, § 312, Oct. 24, 1972, 86 Stat. 1083; Pub. L. 94-502, title III, §§ 309(c), 310(16), Oct. 15, 1976, 90 Stat. 2391, 2392.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502, § 309(c), substituted "chapter 36" for "section 1780".

Subsec. (b). Pub. L. 94-502, § 310(16), substituted "the person's" for "his" and "the person" for "he".

1972—Subsec. (a). Pub. L. 92-540, § 312(1), added provision requiring the Administrator to pay in accordance with the provisions of section 1780 of this title.

Subsec. (b). Pub. L. 92-540, § 312(2), (3), redesignated former subsec. (d) as (b). Former subsec. (b), which provided for the payment of the educational assistance allowance, pursuant to section 1732 of this title, to the eligible person only for a period of his enrollment as approved by the Administrator subject to certain limitations, was struck out.

Subsec. (c). Pub. L. 92-540, § 312(2), struck out subsec. (c), which authorized the Administrator, pursuant to regulations, to determine enrollment in, pursuit of, and attendance at, any program of education or course by an eligible person.

Subsec. (d). Pub. L. 92-540, § 312(3), redesignated former subsec. (d) as (b).

Subsec. (e). Pub. L. 92-540, § 312(2), struck out subsec. (e), which related to the prompt payment by the Administrator of the allowance to the eligible person.

1966—Subsec. (c). Pub. L. 89-358 added subsec. (c) and struck out former subsec. (c) which conditioned payment of allowance to eligible person taking college degree course on receipt from such person of certification of enrollment and pursuit of such course and from educational institution certification or indorsement on student's certification of enrollment and pursuit of such course, prescribed such conditions for eligible person taking a course not leading to college degree as are now incorporated in subsec. (d) of this section, and required payments to be made within twenty days after receipt of requisite certifications, now incorporated in subsec. (e) of this section.

Subsec. (d). Pub. L. 89-358 redesignated provisions of former subsec. (c)(1)(B), (2) as subsec. (d).

Subsec. (e). Pub. L. 89-358 added subsec. (e). Concluding sentence of former subsec. (c), struck out by Pub. L. 89-358, provided for payment of such allowances within twenty days after receipt by the Administrator of requisite certifications.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

§ 1732. Computation of educational assistance allowance

(a)(1) The educational assistance allowance on behalf of an eligible person who is pursuing a program of education consisting of institutional courses shall be computed at the rate prescribed in section 1682(a)(1) of this title for full-time, three-quarter-time, or half-time pursuit, as appropriate, of an institutional program by an eligible veteran with no dependents.

(2) The educational assistance allowance on behalf of an eligible person pursuing a program of education on less than a half-time basis shall be computed at the rate prescribed in section 1682(b)(2) of this title for less-than-half-time pursuit of an institutional program by an eligible veteran.

(b) The educational assistance allowance to be paid on behalf of an eligible person who is pursuing a full-time program of education which consists of institutional courses and alternate phases of training in a business or industrial establishment with the training in the business or industrial establishment being strictly supplemental to the institutional portion, shall be computed at the rate of $235 per month.

(c)(1) An eligible person who is enrolled in an educational institution for a "farm cooperative" program consisting of institutional agricultural courses prescheduled to fall within forty-four weeks of any period of twelve consecutive months and who pursues such program on—

(A) a full-time basis (a minimum of ten clock hours per week or four hundred and forty clock hours in such year prescheduled to provide not less than eighty clock hours in any three-month period),

(B) a three-quarter-time basis (a minimum of seven clock hours per week), or (C) a half-time basis (a minimum of five clock hours per week),

shall be eligible to receive an educational assistance allowance at the appropriate rate provided in paragraph (2) of this subsection, if such eligible person is concurrently engaged in agricultural employment which is relevant to such institutional agricultural courses as determined under standards prescribed by the Administrator. In computing the foregoing clock hour requirements there shall be included the time involved in field trips and individual and group instruction sponsored and conducted by the educational institution through a duly authorized instructor of such institution in which the person is enrolled.

(2) The monthly educational assistance allowance to be paid on behalf of an eligible person pursuing a farm cooperative program under this chapter shall be computed at the rate prescribed in section 1682(c)(2) of this title for full-time, three-quarter-time, or half-time pursuit, as appropriate, of a farm cooperative program by an eligible veteran with no dependents.

(3) The monthly educational assistance allowance to be paid on behalf of an eligible person pursuing an independent study program which leads to a standard college degree shall be computed at the rate prescribed in section 1682(e) of this title.

(d) If a program of education is pursued by an eligible person at an institution located in the Republic of the Philippines, the educational assistance allowance computed for such person under this section shall be paid at a rate in Philippine pesos equivalent to $0.50 for each dollar.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1198; Pub. L. 89-222, § 1, Sept. 30, 1965, 79 Stat. 896; Pub. L. 91-219, title I, § 104(a), (b), title II, § 210, Mar. 25, 1970, 84 Stat. 77, 83; Pub. L. 92-540, title I, § 103(1)-(3), Oct. 24, 1972, 86 Stat. 1075, 1076; Pub. L. 93-508, title I, § 103(1)-(3), title II, § 208, Dec. 3, 1974, 88 Stat. 1580, 1584; Pub. L. 93-602, title II, § 204(a), Jan. 2, 1975, 88 Stat. 1958; Pub. L. 94-502, title III, §§ 301(1), 308, Oct. 15, 1976, 90 Stat. 2389, 2390.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-502, § 301(1), substituted "$235" for "$217".

Subsec. (c)(3). Pub. L. 94-502, § 308, added subsec. (c)(3).

1975—Subsec. (b). Pub. L. 93-602 substituted "$217" for "$209".

1974—Subsec. (a)(1). Pub. L. 93-508, § 103(1), substituted "prescribed in section 1682(a)(1) of this title for full-time, three-quarter-time, or half-time pursuit, as appropriate, of an institutional program by an eligible veteran with no dependents" for "of (A) $220 per month if pursued on a full-time basis, (B) $165 per month if pursued on a three-quarter-time basis, and (C) $110 per month if pursued on a half-time basis".

Subsec. (a)(2). Pub. L. 93-508, § 103(2), substituted "prescribed in section 1682(b)(2) of this title for less-than-half-time pursuit of an institutional program by an eligible veteran" for "of (A) the established charges for tuition and fees which the institution requires other individuals enrolled in the same program to pay, or (B) $220 per month for a full-time course whichever is the lesser".

Subsec. (b). Pub. L. 93-508, § 103(3), substituted "$209" for "$177".

Subsec. (c). Pub. L. 93-508, § 208, added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 93-508, § 208, redesignated former subsec. (c) as (d).

1972—Subsec. (a)(1). Pub. L. 92-540 § 103(1), substituted "$220" for "$175" in cl. (A), "$165" for "$128" in cl. (B), and "$110" for "$81" in cl. (C).

Subsec. (a)(2). Pub. L. 92-540, § 103(2), substituted "$220" for "$175".

Subsec. (b). Pub. L. 92-540, § 103(3), substituted "$177" for "$141".

1970—Subsec. (a). Pub. L. 91-219, § 104(a), designated existing provision as par. (1), substituted "(A) $175" for "(1) $130", "(B) $128" for "(2) $95", and "(C) $81" for "(3) $60", respectively in par. (1) as so designated, and added par. (2).

Subsec. (b). Pub. L. 91-219, § 104(b), substituted "$141" for "$105".

Subsec. (c). Pub. L. 91-219, § 210, substituted provision that if a program of education is pursued by an eligible person at an institution located in the Republic of the Philippines, the educational assistance allowance computed for such person should be paid at a specified rate in Philippine pesos, for provision forbidding educational assistance allowance to a person who is pursuing an institutional course on a less than prescribed basis.

1965—Subsec. (a). Pub. L. 89-222, § 1(a), substituted "$130", "$95" and "$60" for "$110", "$80" and "$50", respectively.

Subsec. (b). Pub. L. 89-222, § 1(b), substituted "$105" for "$90".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Oct. 1, 1976, see section 703(a) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-602 effective Jan. 1, 1975, see section 206 of Pub. L. 93-602, set out as an Effective Date of 1975 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of subsecs. (a) and (b) by Pub. L. 93-508 effective Sept. 1, 1974, see section 501 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1501 of this title.

Amendment of subsecs. (c) and (d) by Pub. L. 93-508 effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-540 effective Oct. 1, 1972, except for those veterans and eligible persons in training on Oct. 24, 1972, see section 601(a) of Pub. L. 92-540, set out as an Effective Date of 1972 Amendment note under section 1502 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment of subsecs. (a) and (b) by section 104(a), (b) of Pub. L. 91-219 effective Feb. 1, 1970, see section 301 of Pub. L. 91-219, set out as an Effective Date of 1970 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 4 of Pub. L. 89-222 provided that: "The amendments made by the first and second sections of this Act [amending subsecs. (a) and (b) of this section and section 1742(a) of this title] shall take effect on the first day of the second calendar month following the date of enactment of this Act [Sept. 30, 1965]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1733, 1765, 1780 of this title.

§ 1733. Special assistance for the educationally disadvantaged

(a) Any eligible spouse or surviving spouse shall, without charge to any entitlement such spouse may have under section 1711 of this title, be entitled to the benefits provided an eligible veteran under section 1691 (if pursued in a State) of this title and be paid an educational assistance allowance under the provisions of section 1732(a) of this title.

(b) Any eligible person shall, without charge to any entitlement such person may have under section 1711 of this title, be entitled to the benefits provided an eligible veteran under section 1692 of this title.

(Added Pub. L. 92-540, title III, § 313, Oct. 24, 1972, 86 Stat. 1084, and amended Pub. L. 94-502, title III, § 310(17), (18), Oct. 15, 1976, 90 Stat. 2392.)

PRIOR PROVISIONS

A prior section 1733, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1198, as amended by Pub. L. 91-219, title II, § 206(b), Mar. 26, 1970, 84 Stat. 82; Pub. L. 91-584, § 12, Dec. 24, 1970, 84 Stat. 1577, related to the measurement of courses, See now section 1788 of this title.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502, § 310(17), substituted "spouse or surviving spouse" for "wife or widow" and "such spouse" for "she".

Subsec. (b). Pub. L. 94-502, § 310(18), substituted "such person" for "he".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective on Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

TERMINATION OF ELIGIBILITY PERIOD

Termination of eligibility period for a wife or widow, or an eligible person eight years from Oct. 24, 1972, see section 604 of Pub. L. 92-540, set out as a note under section 1712 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1723 of this title.

§ 1734. Apprenticeship or other on-job training; correspondence courses

(a) Any eligible person shall be entitled to pursue, in a State, a program of apprenticeship or other on-job training and be paid a training assistance allowance as provided in section 1787 of this title.

(b) Any eligible spouse or surviving spouse shall be entitled to pursue a program of education exclusively by correspondence and be paid an educational assistance allowance as provided in section 1786 of this title.

(Added Pub. L. 92-540, title III, § 313, Oct. 24, 1972, 86 Stat. 1084, and amended Pub. L. 94-502, title III, § 310(19), Oct. 15, 1976, 90 Stat. 2392.)

PRIOR PROVISIONS

A prior section 1734, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1199, as amended by Pub. L. 89-358, § 4(m), Mar. 3, 1966, 80 Stat. 25, related to the overcharging of eligible persons by educational institutions. See section 1790 of this title.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-502 substituted "spouse or surviving spouse" for "wife or widow".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective on Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

§ 1735. Approval of courses

An eligible person shall receive the benefits of this chapter while enrolled in a course of education offered by an educational institution only if such course (1) is approved in accordance with the provisions of subchapter I of chapter 36 of this title, or (2) is approved for the enrollment of the particular individual under the provisions of section 1736 of this title.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1139; Pub. L. 88-126, § 2, Sept. 23, 1963, 77 Stat. 162; Pub. L. 89-358, § 4(n), Mar. 3, 1966, 80 Stat. 25; Pub. L. 92-540, title IV, § 402(4), Oct. 24, 1972, 86 Stat. 1090.)

AMENDMENTS

1972—Pub. L. 92-540 substituted reference to section 1736 of this title for reference to section 1737 of this title.

1966—Pub. L. 89-358 redesignated former subsec. (a) as the entire section, deleted therefrom the introductory phrase "Until the date for the expiration of all education and training under chapter 33 of this title,", substituted "An eligible person" for "and eligible person", "chapter" for "subchapter", and "subchapter I of chapter 36 of this title" for "this section or subchapter VII of this chapter", and deleted former subsec. (b) which provided for scope of approval and is now incorporated in section 1770(b) of this title.

1963—Subsec. (a). Pub. L. 88-126, § 2(1), (2), inserted "Until the date for the expiration of all education and training under chapter 33 of this title, and" preceding "eligible person", and "or subchapter VII of this chapter" following "this section".

Subsec. (b). Pub. L. 88-126, § 2(3), inserted "or section 1778."

Subsec. (c). Pub. L. 88-126, § 2(4), repealed subsec. (c) which related to the responsibility of the Administrator, after the expiration date of all education and training under chapter 33 of this title, for the approval of any additional courses.

§ 1736. Specialized vocational training courses

The Administrator may approve a specialized course of vocational training leading to a predetermined vocational objective for the enrollment of an eligible person under this subchapter if the Administrator finds that such course, either alone or when combined with other courses, constitutes a program of education which is suitable for that person and is required because of a mental or physical handicap.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1199, § 1737; Pub. L. 88-126, § 4, Sept. 23, 1963, 77 Stat. 162, renumbered Pub. L. 92-540, title IV, § 402(3), Oct. 24, 1972, 86 Stat. 1090, and amended Pub. L. 94-502, title III, § 310(20), Oct. 15, 1976, 90 Stat. 2392.)

PRIOR PROVISIONS

A prior section 1736, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1199; Pub. L. 88-126, § 3, Sept. 23, 1963, 77 Stat. 162; Pub. L. 89-358, § 4(o), Mar. 3, 1966, 80 Stat. 25, which related to discontinuance of the educational assistance allowance by the Administrator, was repealed by Pub. L. 92-540, title IV, § 402(2), Oct. 24, 1972, 86 Stat. 1090. See now section 1790 of this title.

AMENDMENTS

1976—Pub. L. 94-502 substituted "if the Administrator finds" for "if he finds".

1963—Pub. L. 88-126 deleted "Notwithstanding the provisions of subsections (b) and (c) of section 1735 of this title" preceding "The Administrator may approve".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective on Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1712, 1735, 1772 of this title.

§ 1737. Education loans

Any eligible persons shall be entitled to an education loan (if the program of education is pursued in a State) in such amount and on such terms and conditions as provided in sections 1798 and 1799 of this title.

(Added Pub. L. 93-508, title III, § 303(a), Dec. 3, 1974, 88 Stat. 1591.)

PRIOR PROVISIONS

A prior section 1737 was renumbered section 1736.

EFFECTIVE DATE

Section effective on Jan. 1, 1975, except that eligible persons shall, upon application, be entitled to a loan under subchapter III of chapter 36 of this title, the terms of which take into account the full amount of

the actual cost of attendance, as defined in section 1798(b)(2)(C) of this title, which such persons incurred for the academic year beginning on or about Sept. 1, 1974, see section 502 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1798 of this title.

SUBCHAPTER V—SPECIAL RESTORATIVE TRAINING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1712, 1772 of this title.

§ 1740. Purpose

The purpose of special restorative training is to overcome, or lessen, the effects of a manifest physical or mental disability which would handicap an eligible person in the pursuit of a program of education.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1200.)

§ 1741. Entitlement to special restorative training

(a) The Administrator at the request of the parent or guardian of an eligible person is authorized—

(1) to determine whether such person is in need of special restorative training; and

(2) where need is found to exist, to prescribe a course which is suitable to accomplish the purposes of this chapter.

Such a course, at the discretion of the Administrator, may contain elements that would contribute toward an ultimate objective of a program of education.

(b) The total period of educational assistance under this subchapter and other subchapters of this chapter may not exceed the amount of entitlement as established in section 1711 of this title, except that the Administrator may extend such period in the case of any person if the Administrator finds that additional assistance is necessary to accomplish the purpose of special restorative training as stated in subsection (a) of this section.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1200; Pub. L. 88-361, § 6, July 7, 1964, 78 Stat. 298; Pub. L. 94-502, title III, § 310(21), Oct. 15, 1976, 90 Stat. 2392.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-502 substituted "if the Administrator finds" for "if he finds".

1964—Subsec. (b). Pub. L. 88-361 authorized the Administrator to extend the period if he finds additional assistance necessary to accomplish the purpose of special restorative training.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective on Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88-433, § 2, Aug. 14, 1964, 78 Stat. 442, provided that: "The amendments made by section 6 of the Act of July 7, 1964 (Public Law 88-361, 78 Stat. 297) [to this section], shall take effect as of January 1, 1964."

§ 1742. Special training allowance

(a) While the eligible person is enrolled in and pursuing a full-time course of special restorative training, the parent or guardian shall be entitled to receive on behalf of such person a special training allowance computed at the basic rate of $292 per month. If the charges for tuition and fees applicable to any such course are more than $92 per calendar month, the basic monthly allowance may be increased by the amount that such charges exceed $92 a month, upon election by the parent or guardian of the eligible person to have such person's period of entitlement reduced by one day for each $9.76 that the special training allowance paid exceeds the basic monthly allowance.

(b) No payments of a special training allowance shall be made for the same period for which the payment of an educational assistance allowance is made or for any period during which the training is pursued on less than a full-time basis.

(c) Full-time training for the purpose of this section shall be determined by the Administrator with respect to the capacities of the individual trainee.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1200; Pub. L. 89-222, § 2, Sept. 30, 1965, 79 Stat. 896; Pub. L. 91-219, title I, § 104(c), Mar. 26, 1970, 84 Stat. 78; Pub. L. 92-540, title I, § 103(4), Oct. 24, 1972, 86 Stat. 1076; Pub. L. 93-508, title I, § 103(4), Dec. 3, 1974, 88 Stat. 1580; Pub. L. 93-602, title II, § 204(b), Jan. 2, 1975, 88 Stat. 1958; Pub. L. 94-502, title III, § 301(2), Oct. 15, 1976, 90 Stat. 2389.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502 substituted "$292" for "$270", "$92" for "$85" in two places, and "$9.76" for "$9.02".

1975—Subsec. (a). Pub. L. 93-602 substituted "$270", "$85", "$85", and "$9.02" for "$260", "$82", "$82", and "$8.69" respectively.

1974—Subsec. (a). Pub. L. 93-508 substituted "behalf of such person", "$260", "$82", "$82", and "$8.69" for "his behalf a", "$220", "$69", "$69", and "$7.35" respectively.

1972—Subsec. (a). Pub. L. 92-540 substituted "$220" for "$175", "$69" for "$55", and "$7.35" for "$6.80", respectively.

1970—Subsec. (a). Pub. L. 91-219 substituted "$175" for "$130", "$55" for "$41", and "$6.80" for "$4.25" respectively.

1965—Subsec. (a). Pub. L. 89-222 substituted "$130", "$41", "$41" and "$4.25" for "$110", "$35", "$35" and "$3.60", respectively.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Oct. 1, 1976, see section 703(a) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-602 effective Jan. 1, 1975, see section 206 of Pub. L. 93-602, set out as an Effective Date of 1975 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Sept. 1, 1974, see section 501 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1501 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-540 effective Oct. 1, 1972, except for those veterans and eligible persons in training on Oct. 24, 1972, see section 601(a) of Pub. L. 92-540, set out as an Effective Date of 1972 Amendment note under section 1502 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-219 effective Feb. 1, 1970, see section 301 of Pub. L. 91-219, set out as an Effective Date of 1970 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-222 effective on the first day of the second calendar month following September 30, 1965, see section 4 of Pub. L. 89-222, set out as an Effective Date of 1965 Amendment note under section 1732 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1765 of this title.

§ 1743. Special administrative provisions

(a) In carrying out the Administrator's responsibilities under this chapter the Administrator may by agreement arrange with public or private educational institutions or others to provide training arrangements as may be suitable and necessary to accomplish the purposes of this subchapter. In any instance where the Administrator finds that a customary tuition charge is not applicable, the Administrator may agree on the fair and reasonable amounts which may be charged the parent or guardian for the training provided to an eligible person.

(b) The Administrator shall make such rules and regulations as the Administrator may deem necessary in order to promote good conduct on the part of the persons who are following courses of special restorative training and otherwise to carry out the purposes of this chapter.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1200; Pub. L. 94-502, title III, § 310(22), Oct. 15, 1976, 90 Stat. 2392.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502 substituted "the Administrator's" for "his" and "the Administrator may agree" for "he may agree".

Subsec. (b). Pub. L. 94-502 substituted "the Administrator may deem" for "he may deem".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective on Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

SUBCHAPTER VI—MISCELLANEOUS PROVISIONS

§ 1761. Authority and duties of Administrator

(a) The Administrator may provide the educational and vocational counseling required under section 1720 of this title, and may provide or require additional counseling if the Administrator deems it to be necessary to accomplish the purposes of this chapter.

(b) Where any provision of this chapter authorizes or requires any function, power, or duty to be exercised by a State, or by any officer or agency thereof, such function, power, or duty shall, with respect to the Republic of the Philippines, be exercised by the Administrator.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1200; Pub. L. 89-358, § 3(a)(1), Mar. 3, 1966, 80 Stat. 19; Pub. L. 94-502, title III, § 310(23), Oct. 15, 1976, 90 Stat. 2392.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502 substituted "if the Administrator deems" for "if he deems".

1966—Subsec. (a). Pub. L. 89-358 redesignated former subsec. (b) as (a) and deleted provisions of former subsec. (a) for audit and review of payments by the GAO as provided by Budget and Accounting Act of 1921 and Budget and Accounting Procedures Act of 1950.

Subsec. (b). Pub. L. 89-358 redesignated former subsec. (d) as (b). Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 89-358 struck out subsec. (c) which had provided for use of other Federal agencies. See now, section 1790 of this title.

Subsec. (d). Pub. L. 89-358 redesignated former subsec. (d) as (b).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective on Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

§ 1762. Nonduplication of benefits

The commencement of a program of education or special restorative training under this chapter shall be a bar (1) to subsequent payments of compensation, dependency and indemnity compensation, or pension based on the death of a parent to an eligible person over the age of eighteen by reason of pursuing a course in an educational institution, or (2) to increased rates, or additional amounts, of compensation, dependency and indemnity compensation, or pension because of such a person whether eligibility is based upon the death or upon the total permanent disability of the parent.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1201; Pub. L. 88-361, § 4, July 7, 1964, 78 Stat. 298; Pub. L. 89-358, § 3(a)(2), Mar. 3, 1966, 80 Stat. 20.)

AMENDMENTS

1966—Pub. L. 89-358 redesignated former subsec. (a) as the entire section and deleted former subsec. (b) which prohibited payment of educational assistance allowance or special training allowance on behalf of any eligible person for any period paid for under other provision of law where the payment would constitute a duplication of benefits and which is now incorporated in section 1781 of this title.

1964—Subsec. (a). Pub. L. 88-361 inserted "whether eligibility is based upon the death or upon the total permanent disability of the parent".

§ 1763. Notification of eligibility

The Administrator shall notify the parent or guardian of each eligible person defined in section 1701(a)(1)(A) of this chapter of the educational assistance available to such person under this chapter. Such notification shall be provided not later than the month in which such eligible person attains such person's thirteenth birthday or as soon thereafter as feasible.

(Added Pub. L. 91-219, title II, § 207(a), Mar. 26, 1970, 84 Stat. 82, and amended Pub. L. 94-502, title III, § 310(24), Oct. 15, 1976, 90 Stat. 2392.)

PRIOR PROVISIONS

A prior section 1763, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1201, providing for control by agencies of the United States, was repealed by Pub. L. 89-358, § 3(a)(3), Mar. 3, 1966, 80 Stat. 20. See now section 1782 of this title.

AMENDMENTS

1976—Pub. L. 94-502 substituted "such person's" for "his".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective on Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

[§ 1764. Repealed. Pub. L. 89-358, § 3(a)(3), Mar. 3, 1966, 80 Stat. 20]

Section, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1201, provided for dismissal for conflict of interest. See now section 1783 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Mar. 3, 1966, see section 12(a) of Pub. L. 89-358, set out as an Effective Date note under section 1651 of this title.

SUBCHAPTER VII—PHILIPPINE COMMONWEALTH ARMY AND PHILIPPINE SCOUTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1770 of this title.

§ 1765. Children of certain Philippine veterans

BASIC ELIGIBILITY

(a) The term "eligible person" as used in section 1701(a)(1) of this title includes the children of those Commonwealth Army veterans and "New" Philippine Scouts who meet the requirements of service-connected disability or death, based on service as defined in section 1766.

ADMINISTRATIVE PROVISIONS

(b) The provisions of this chapter and chapter 36 shall apply to the educational assistance for children of Commonwealth Army veterans and "New" Philippine Scouts, except that—

(1) educational assistance allowances authorized by section 1732 of this title and the special training allowance authorized by section 1742 of this title shall be paid at a rate in Philippine pesos equivalent to $0.50 for each dollar, and

(2) any reference to a State approving agency shall be deemed to refer to the Administrator.

DELIMITING DATES

(c) In the case of any individual who is an eligible person solely by virtue of subsection (a) of this section, and who is above the age of seventeen years and below the age of twenty-three years on September 30, 1966, the period referred to in section 1712 of this title shall not end until the expiration of the five-year period which begins on September 30, 1966.

(Added Pub. L. 89-613, § 1, Sept. 30, 1966, 80 Stat. 861, and amended Pub. L. 91-24, § 9(c), June 11, 1969, 83 Stat. 34.)

PRIOR PROVISIONS

A prior section 1765, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1202, provided for reports by institutions, and was repealed by Pub. L. 89-358, § 3(a)(3), Mar. 3, 1966, 80 Stat. 20. See now section 1784 of this title.

AMENDMENTS

1969—Subsec. (c). Pub. L. 91-24 substituted "September 30, 1966" for "the date of enactment of this section" and "September 30, 1966" for "the date of enactment of such section".

SAVINGS PROVISIONS

Pub. L. 89-358, § 12(b), Mar. 3, 1966, 80 Stat. 28, provided that the provisions of section 1765(b), relating to payment of reporting allowance at rate of $1 per month, as in effect before Mar. 3, 1966, were to remain in effect through May 31, 1966.

§ 1766. Definitions

(a) The term "Commonwealth Army veterans" means persons who served before July 1, 1946, in the organized military forces of the Government of the Philippines, while such forces were in the service of the Armed Forces pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander-in-Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, and who were discharged or released from such service under conditions other than dishonorable.

(b) The term "'New' Philippine Scouts" means Philippine Scouts who served under section 14 of the Armed Forces Voluntary Recruitment Act of 1945, and who were discharged or released from such service under conditions other than dishonorable.

(Added Pub. L. 89-613, § 1, Sept. 30, 1966, 80 Stat. 861.)

REFERENCES IN TEXT

Section 14 of the Armed Forces Voluntary Recruitment Act of 1945, referred to in subsec. (b), means section 14 of act Oct. 6, 1945, ch. 393, 59 Stat. 543, which enacted section 637 of former Title 10, Army and Air Force, and was omitted from the Code in the revision and reenactment of Title 10, Armed Forces, by act Aug. 10, 1956, ch. 1041, 70A Stat. 1.

PRIOR PROVISIONS

A prior section 1766, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1202, related to overpayments to eligible persons, and was repealed by Pub. L. 89-358, § 3(a)(3), Mar. 3, 1966, 80 Stat. 20. See now section 1785 of this title.

A prior section 1767, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1202, which related to examination of records, was repealed by Pub. L. 89-358, § 3(a)(3), Mar. 3, 1966, 80 Stat. 20.

A prior section 1768, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1202, which related to false or misleading statements, was repealed by Pub. L. 89-358, § 3(a)(3), Mar. 3, 1966, 80 Stat. 20.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1765 of this title.

CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

SUBCHAPTER I—STATE APPROVING AGENCIES

Sec.
1770. Scope of approval.
1771. Designation.
1772. Approval of courses.
1773. Cooperation.
1774. Reimbursement of expenses.
1775. Approval of accredited courses.
1776. Approval of nonaccredited courses.
1777. Approval of training on the job.
1778. Notice of approval of courses.
1779. Disapproval of courses.

SUBCHAPTER II—MISCELLANEOUS PROVISIONS

1780. Payment of educational or subsistence allowances. [1]
1781. Limitations on educational assistance.
1782. Control by agencies of the United States.
1783. Conflicting interests.
1784. Reports by institutions; reporting fee.
1785. Overpayments to eligible persons or veterans.
1786. Correspondence courses.
1787. Apprenticeship or other on-job training.
1788. Measurement of courses.
1789. Period of operation for approval.
1790. Overcharges by educational institutions; discontinuance of allowances; examination of records; false or misleading statements.
1791. Change of program.
1792. Advisory committee.
1793. Compliance surveys.
1794. Use of other Federal agencies.
1795. Limitation on period of assistance under two or more programs.
1796. Limitation on certain advertising, sales, and enrollment practices.

SUBCHAPTER III—EDUCATION LOANS TO ELIGIBLE VETERANS AND ELIGIBLE PERSONS

1798. Eligibility for loans; amount and conditions of loans; interest rate on loans.
1799. Revolving fund; insurance.

AMENDMENTS

1976—Pub. L. 94-502, title V, § 511(2), Oct. 15, 1976, 90 Stat. 2402, substituted in item 1793 "Compliance surveys" for "Institutions listed by Attorney General".

1974—Pub. L. 93-508, title II, § 212(b), title III, § 301(b), Dec. 3, 1974, 88 Stat. 1586, 1591, added subchapter III heading and items 1796, 1798, and 1799.

1972—Pub. L. 92-540, title IV, § 406, Oct. 24, 1972, 86 Stat. 1091, redesignated former items 1788 to 1791 as items 1792 to 1795, added 1780 and 1788 to 1791, and substituted in item 1786 items "Correspondence courses" for "Examination of records" and in item 1787 "Apprenticeship or other on-job training" for "False or misleading statements".

1970—Pub. L. 91-219, title II, § 213(2), Mar. 26, 1970, 84 Stat. 84, substituted "Limitations on educational assistance" for "Nonduplication of benefits" as item 1781.

1968—Pub. L. 90-631, § 1(d)(2), Oct. 23, 1968, 82 Stat. 1331, added item 1791.

1967—Pub. L. 90-77, title III, §§ 304(e), 308(b), Aug. 31, 1967, 81 Stat. 188, 189, added item 1777 and renumbered former items 1777 and 1778 as 1778 and 1779, and provided for the reporting fee in item 1784, respectively.

1966—Pub. L. 89-358, § 3(a)(4), Mar. 3, 1966, 80 Stat. 20, substituted "Chapter 36—Administration of Educational Benefits" heading, including Subchapter I and II analyses, preceding section 1770 of this title for "Subchapter VII—State Approving Agencies" heading preceding section 1771 of this title, Subchapter VII heading being redesignated Subchapter I.

[1] So in original. Does not conform to section catchline.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 243, 1502, 1641, 1652, 1661, 1662, 1670, 1681, 1701, 1781, 1784, 1793, 1795, 2013 of this title.

SUBCHAPTER I—STATE APPROVING AGENCIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1683, 1735 of this title.

§ 1770. Scope of approval

(a) A course approved under and for the purposes of this chapter shall be deemed approved for the purposes of chapters 34 and 35 of this title.

(b) Any course approved under chapter 33 of this title, prior to February 1, 1965, under subchapter VII of chapter 35 of this title, prior to the date of enactment of this chapter, and not disapproved under section 1683, section 1656 (as in effect prior to February 1, 1965), or section 1778 of this title, shall be deemed approved for the purposes of this chapter.

(Added Pub. L. 89-358, § 3(a)(5), Mar. 3, 1966, 80 Stat. 20, and amended Pub. L. 92-540, title IV, § 403(1), Oct. 24, 1972, 86 Stat. 1090.)

REFERENCES IN TEXT

Chapter 33 of this title, prior to February 1, 1965, referred to in subsec. (b), means Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1174 to 1192, which was classified to sections 1601, 1610 to 1613, 1620 to 1626, 1631 to 1634, 1641 to 1645, 1651 to 1656, and 1661 to 1669 of this title, and was repealed by section 4(a) of Pub. L. 89-358.

Subchapter VII of chapter 35 of this title, prior to the date of enactment of this chapter, referred to in subsec. (b), means Pub. L. 88-126, § 1, Sept. 23, 1963, 77 Stat. 158 to 162, which was classified to sections 1771 to 1778 of this title, and was redesignated as subchapter I of this chapter by section 3(a)(4) of Pub. L. 89-358.

Section 1656 of this title, as in effect prior to Feb. 1, 1965, referred to in subsec. (b), is Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1189, which was repealed by section 4(a) of Pub. L. 89-358, and is now covered by section 1779 of this title.

Section 1778 of this title, referred to in subsec. (b), was renumbered section 1779 by Pub. L. 90-77, title III, § 304(d), Aug. 31, 1967, 81 Stat. 186.

AMENDMENTS

1972—Subsec. (b). Pub. L. 92-540 substituted reference to section 1683 of this title for reference to section 1686 of this title.

§ 1771. Designation

(a) Unless otherwise established by the law of the State concerned, the chief executive of each State is requested to create or designate a State department or agency as the "State approving agency" for such State for the purposes of this chapter and chapters 34 and 35 of this title.

(b)(1) If any State fails or declines to create or designate a State approving agency, the provisions of this chapter which refer to the State approving agency shall, with respect to such State, be deemed to refer to the Administrator.

(2) In the case of courses subject to approval by the Administrator under section 1772 of this title, the provisions of this chapter which refer

to a State approving agency shall be deemed to refer to the Administrator.

(Added Pub. L. 88-126, § 1, Sept. 23, 1963, 77 Stat. 158, and amended Pub. L. 89-358, § 3(a)(6), Mar. 3, 1966, 80 Stat. 20; Pub. L. 92-540, title IV, § 403(2), Oct. 24, 1972, 86 Stat. 1090; Pub. L. 94-502, title V, § 513(a)(1), Oct. 15, 1976, 90 Stat. 2402.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502 substituted "such" for "his".

1972—Subsec. (a). Pub. L. 92-540 added reference to this chapter.

1966—Subsec. (a). Pub. L. 89-358 substituted "chapters 34 and 35 of this title" for "this chapter after the date for the expiration of all education and training provided in chapter 33 of this title. Such agency may be the agency designated or created in accordance with section 1641 of this title".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective on Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

§ 1772. Approval of courses

(a) An eligible person or veteran shall receive the benefits of this chapter and chapters 34 and 35 while enrolled in a course of education offered by an educational institution only if (1) such course is approved as provided in this chapter and chapters 34 and 35 by the State approving agency for the State where such educational institution is located, or by the Administrator, or (2) such course is approved (A) for the enrollment of the particular individual under the provisions of section 1736 of this title or (B) for special restorative training under subchapter V of chapter 35 of this title. Approval of courses by State approving agencies shall be in accordance with the provisions of this chapter and chapters 34 and 35 and such other regulations and policies as the State approving agency may adopt. Each State approving agency shall furnish the Administrator with a current list of educational institutions specifying courses which it has approved, and, in addition to such list, it shall furnish such other information to the Administrator as it and the Administrator may determine to be necessary to carry out the purposes of this chapter and chapters 34 and 35. Each State approving agency shall notify the Administrator of the disapproval of any course previously approved and shall set forth the reasons for such disapproval.

(b) The Administrator shall be responsible for the approval of courses of education offered by any agency of the Federal Government authorized under other laws to supervise such education. The Administrator may approve any course in any other educational institution in accordance with the provisions of this chapter and chapters 34 and 35.

(c) In the case of programs of apprenticeship where—

(1) the standards have been approved by the Secretary of Labor pursuant to section 50a of title 29 as a national apprenticeship program for operation in more than one State, and

(2) the training establishment is a carrier directly engaged in interstate commerce which provides such training in more than one State,

the Administrator shall act as a "State approving agency" as such term is used in section 1787(a)(1) of this title and shall be responsible for the approval of all such programs.

(Added Pub. L. 88-126, § 1, Sept. 23, 1963, 77 Stat. 158, and amended Pub. L. 89-358, § 3(a)(7), (8), Mar. 3, 1966, 80 Stat. 20, 21; Pub. L. 91-219, title II, § 211, Mar. 26, 1970, 84 Stat. 83; Pub. L. 92-540, title IV, § 403(3)-(5), Oct. 24, 1972, 86 Stat. 1090.)

CODIFICATION

Section 3(a)(7) of Pub. L. 89-358 provided for substitution of "chapters 34 and 35" for "this chapter" in fourth sentence of subsec. (a), a phrase not found in the text.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-540, § 403(3), (4), added references to this chapter wherever appearing therein and substituted reference to section 1736 of this title for reference to section 1737 of this title.

Subsec. (b). Pub. L. 92-540, § 403(3), added reference to this chapter.

Subsec. (c). Pub. L. 92-540, § 403(5), substituted reference to section 1787(a)(1) of this title for reference to section 1683(a)(1) of this title.

1970—Subsec. (c). Pub. L. 91-219 added subsec. (c).

1966—Subsec. (a). Pub. L. 89-358, § 3(a)(7), (8), inserted "of chapter 35 of this title" for "of this chapter" following "under subchapter V" in first sentence, and substituted "chapters 34 and 35" for "this chapter" twice in first sentence, and once in second and third sentences; and inserted "or veteran" following "eligible person", in first sentence, respectively.

Subsec. (b). Pub. L. 89-358, § 3(a)(7), substituted "chapters 34 and 35" for "this chapter".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1771 of this title.

§ 1773. Cooperation

(a) The Administrator and each State approving agency shall take cognizance of the fact that definite duties, functions, and responsibilities are conferred upon the Administrator and each State approving agency under the educational programs established under this chapter and chapters 34 and 35. To assure that such programs are effectively and efficiently administered, the cooperation of the Administrator and the State approving agencies is essential. It is necessary to establish an exchange of information pertaining to activities of educational institutions, and particular attention should be given to the enforcement of approval standards, enforcement of enrollment restrictions, and fraudulent and other criminal activities on the part of persons connected with educational institutions in which eligible persons or veterans are enrolled under this chapter and chapters 34 and 35.

(b) The Administrator will furnish the State approving agencies with copies of such Veterans' Administration informational material as may aid them in carrying out chapters 34 and 35.

(Added Pub. L. 88-126, § 1, Sept. 23, 1963, 77 Stat. 158, and amended Pub. L. 89-358, § 3(a)(7),

(11), Mar. 3, 1966, 80 Stat. 20, 21; Pub. L. 92-540, title IV, § 403(6), Oct. 24, 1972, 86 Stat. 1090.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-540 added references to this chapter wherever appearing therein.

1966—Subsec. (a). Pub. L. 89-358, § 3(a)(7), (11), substituted "chapters 34 and 35" for "this chapter" twice and inserted "or veterans" following "eligible persons", respectively.

Subsec. (b). Pub. L. 89-358, § 3(a)(7), substituted "chapters 34 and 35" for "this chapter".

§ 1774. Reimbursement of expenses

(a) The Administrator is authorized to enter into contracts or agreements with State and local agencies to pay such State and local agencies for reasonable and necessary expenses of salary and travel incurred by employees of such agencies and an allowance for administrative expenses in accordance with the formula contained in subsection (b) of this section in (1) rendering necessary services in ascertaining the qualifications of educational institutions for furnishing courses of education to eligible persons or veterans under this chapter and chapters 34 and 35, and in the supervision of such educational institutions, and (2) furnishing, at the request of the Administrator, any other services in connection with chapters 34 and 35. Each such contract or agreement shall be conditioned upon compliance with the standards and provisions of chapters 34 and 35. The Administrator may also reimburse such agencies for work performed by their subcontractors where such work has a direct relationship to the requirements of chapter 32, 34, 35, or 36 of this title, and has had the prior approval of the Administrator.

(b) The allowance for administrative expenses incurred pursuant to subsection (a) of this section shall be paid in accordance with the following formula:

Total salary cost reimbursable under this section	Allowable for administrative expense
$5,000 or less	$600.
Over $5,000 but not exceeding $10,000	$1,080.
Over $10,000 but not exceeding $35,000	$1,080 for the first $10,000 plus $1,000 for each additional $5,000 or fraction thereof.
Over $35,000 but not exceeding $40,000	$6,535.
Over $40,000 but not exceeding $75,000	$6,535 for the first $40,000 plus $865 for each additional $5,000 or fraction thereof.
Over $75,000 but not exceeding $80,000	$12,960.
Over $80,000	$12,960 for the first $80,000 plus $755 for each additional $5,000 or fraction thereof.

(Added Pub. L. 88-126, § 1, Sept. 23, 1963, 77 Stat. 159, and amended Pub. L. 89-358, § 3(a)(7), (8), (11), Mar. 3, 1966, 80 Stat. 20, 21; Pub. L. 90-631, § 4, Oct. 23, 1968, 82 Stat. 1334; Pub. L. 92-540, title IV, § 403(7), 411, Oct. 24, 1972, 86 Stat. 1090, 1092; Pub. L. 93-508, title II, § 210(1), Dec. 3, 1974, 88 Stat. 1584; Pub. L. 94-502, title V, § 503, Oct. 15, 1976, 90 Stat. 2399.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502, § 503(1), added provision authorizing the Administrator to reimburse State and local agencies for work performed by their subcontractors, where the work performed has a direct relationship to the requirements of this chapter, chapters 32, 34, and 35, and has prior approval of the Administrator.

Subsec. (b). Pub. L. 94-502, § 503(2), increased the allowance for administrative expenses from "$550" to "$600"; "$1000" to "$1080"; "$1000 for the first $10,000 plus $925 for each additional $5,000 or fraction thereof" to "$1,080 for the first $10,000 plus $1,000 for each additional $5,000 or fraction thereof"; "$6,050" to "$6,535"; "$6,050 for the first $40,000 plus $800 for each additional $5,000 or fraction thereof" to "$6,535 for the first $40,000 plus $865 for each additional $5,000 or fraction thereof"; "$12,000" to "$12,960"; "$12,000 for the first $80,000 plus $700 for each additional $5,000 or fraction thereof" to "$12,960 for the first $80,000 plus $755 for each additional $5,000 or fraction thereof".

1974—Subsec. (b). Pub. L. 93-508 increased the allowance for administrative expenses from "$500" to "$550"; "$900" to "$1,000"; "$900 for the first $10,000 plus $800 for each additional $5,000 or fraction thereof" to "$1,000 for the first $10,000 plus $925 for each additional $5,000 or fraction thereof"; "$5,250" to "$6,050"; "$5,250 for the first $40,000 plus $700 for each additional $5,000 or fraction thereof" to "$6,050 for the first $40,000 plus $800 for each additional $5,000 or fraction thereof"; "$10,450" to "$12,000"; and "$10,450 for the first $80,000 plus $600 for each additional $5,000 or fraction thereof" to "$12,000 for the first $80,000 plus $700 for each additional $5,000 or fraction thereof".

1972—Subsec. (a). Pub. L. 92-540, § 403(7), added reference to this chapter in cl. (1).

Subsec. (b). Pub. L. 92-540, § 411, provided for the recomputation of the formula for reimbursement of expenses by doubling the amounts paid as the allowance for administrative expenses.

1968—Subsec. (a). Pub. L. 90-631, § 4(1), (2), designated existing provisions as subsec. (a), and, as so designated, added "and an allowance for administrative expenses in accordance with the formula contained in subsection (b) of this section" following "employees of such agencies".

Subsec. (b). Pub. L. 90-631, § 4(3), added subsec. (b).

1966—Pub. L. 89-358, § 3(a)(7), (11), substituted "chapters 34 and 35" for "this chapter" thrice and inserted "or veterans" following "eligible persons" in cl. (1), respectively.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Oct. 1, 1976, see section 703(a) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 6(b) of Pub. L. 90-631 provided that: "The amendments made by section 4 of this Act [amending this section] shall apply with respect to contracts and agreements entered into under section 1774 of title 38, United States Code, effective for periods beginning after June 30, 1968."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1783 of this title.

§ 1775. Approval of accredited courses

(a) A State approving agency may approve the courses offered by an educational institution when—

(1) such courses have been accredited and approved by a nationally recognized accrediting agency or association;

(2) such courses are conducted under sections 11-28 of title 20; or

(3) such courses are accepted by the State department of education for credit for a teacher's certificate or a teacher's degree.

For the purposes of this chapter the Commissioner of Education shall publish a list of nationally recognized accrediting agencies and associations which the Commissioner determines to be reliable authority as to the quality of training offered by an educational institution and the State approving agencies may, upon concurrence, utilize the accreditation of such accrediting associations or agencies for approval of the courses specifically accredited and approved by such accrediting association or agency. In making application for approval, the institution shall transmit to the State approving agency copies of its catalog or bulletin which must be certified as true and correct in content and policy by an authorized representative of the school. The catalog or bulletin must specifically state its progress requirements for graduation and must include as a minimum the information required by sections 1776(b)(6) and (7) of this title.

(b) As a condition to approval under this section, the State approving agency must find that adequate records are kept by the educational institution to show the progress of each eligible person or veteran and must include as a minimum (except for attendance) the requirements set forth in section 1776(c)(7) of this title. The State approving agency must also find that the educational institution maintains a written record of the previous education and training of the eligible person or veteran and clearly indicates that appropriate credit has been given by the institution for previous education and training, with the training period shortened proportionately and the eligible person or veteran and the Administrator so notified.

(Added Pub. L. 88-126, § 1, Sept. 23, 1963, 77 Stat. 159, and amended Pub. L. 89-358, § 3(a)(8), Mar. 3, 1966, 80 Stat. 21; Pub. L. 94-502, title V, §§ 504, 513(a)(2), Oct. 15, 1976, 90 Stat. 2399, 2402.)

REFERENCES IN TEXT

Sections 15a to 15g of title 20, included within the reference to sections 11-28 of title 20 in subsec. (a)(2), were omitted from the Code as executed.

Section 15h of title 20, included within the reference to sections 11-28 of title 20 in subsec. (a)(2), was omitted from the Code as obsolete.

Sections 15i to 15ggg of title 20, included within the reference to sections 11-28 of title 20 in subsec. (a)(2), were repealed by Pub. L. 90-576, title I, § 103, Oct. 16, 1968, 82 Stat. 1091.

Section 17 of title 20, included within the reference to sections 11-28 of title 20 in subsec. (a)(2), was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 643.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502, §§ 504(1), 513(a)(2), substituted "the Commissioner determines" for "he determines" and added provision requiring that copies of the school bulletin be certified by an authorized representative of the school and that the bulletin specify the progress requirements for graduation and certain other information.

Subsec. (b). Pub. L. 94-502, § 504(2), added provision requiring that school records contain as a minimum, except for attendance, the requirements set forth in section 1776(c)(7) of this title.

1966—Subsec. (b). Pub. L. 89-358 inserted "or veteran" following "eligible person" thrice.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment of subsec. (a) by section 504(1) of Pub. L. 94-502, requiring a school bulletin be certified and contain certain information, effective Dec. 1, 1976, see section 703(c) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

Amendment of subsec. (a) by section 513(a)(2) of Pub. L. 94-502, substituting "Commissioner" for "he", effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

Amendment of subsec. (b) by Pub. L. 94-502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94-502.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1652, 1701, 1776, 1788 of this title.

§ 1776. Approval of nonaccredited courses

(a) No course of education which has not been approved by a State approving agency pursuant to section 1775 of this title, which is offered by a public or private, profit or nonprofit, educational institution shall be approved for the purposes of this chapter unless the educational institution offering such course submits to the appropriate State approving agency a written application for approval of such course in accordance with the provisions of this chapter.

(b) Such application shall be accompanied by not less than two copies of the current catalog or bulletin which is certified as true and correct in content and policy by an authorized owner or official and includes the following:

(1) Identifying data, such as volume number and date of publication;

(2) Names of the institution and its governing body, officials and faculty;

(3) A calendar of the institution showing legal holidays beginning and ending date of each quarter, term, or semester, and other important dates;

(4) Institution policy and regulations on enrollment with respect to enrollment dates and specific entrance requirements for each course;

(5) Institution policy and regulations relative to leave, absences, class cuts, makeup work, tardiness and interruptions for unsatisfactory attendance;

(6) Institution policy and regulations relative to standards of progress required of the student by the institution (this policy will define the grading system of the institution, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress and a description of the probationary period, if any, allowed by the in-

stitution, and conditions of reentrance for those students dismissed for unsatisfactory progress. A statement will be made regarding progress records kept by the institution and furnished by the student);

(7) Institution policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct;

(8) Detailed schedules of fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges;

(9) Policy and regulations of the institution relative to the refund of the unused portion of tuition, fees, and other charges in the event the student does not enter the course or withdraws or is discontinued therefrom;

(10) A description of the available space, facilities, and equipment;

(11) A course outline for each course for which approval is requested, showing subjects or units in the course, type of work or skill to be learned, and approximate time and clock hours to be spent on each subject or unit; and

(12) Policy and regulations of the institution relative to granting credit for previous educational training.

(c) The appropriate State approving agency may approve the application of such institution when the institution and its non-accredited courses are found upon investigation to have met the following criteria:

(1) The courses, curriculum, and instruction are consistent in quality, content, and length with similar courses in public schools and other private schools in the State, with recognized accepted standards.

(2) There is in the institution adequate space, equipment, instructional material, and instructor personnel to provide training of good quality.

(3) Educational and experience qualifications of directors, administrators, and instructors are adequate.

(4) The institution maintains a written record of the previous education and training of the eligible person and clearly indicates that appropriate credit has been given by the institution for previous education and training, with the training period shortened proportionately and the eligible person and the Administrator so notified.

(5) A copy of the course outline, schedule of tuition, fees, and other charges, regulations pertaining to absence, grading policy, and rules of operation and conduct will be furnished the eligible person upon enrollment.

(6) Upon completion of training, the eligible person is given a certificate by the institution indicating the approved course and indicating that training was satisfactorily completed.

(7) Adequate records as prescribed by the State approving agency are kept to show attendance and progress or grades, and satisfactory standards relating to attendance, progress, and conduct are enforced.

(8) The institution complies with all local, city, county, municipal, State, and Federal regulations, such as fire codes, building and sanitation codes. The State approving agency may require such evidence of compliance as is deemed necessary.

(9) The institution is financially sound and capable of fulfilling its commitments for training.

(10) The institution does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission, or intimation. The institution shall not be deemed to have met this requirement until the State approving agency (A) has ascertained from the Federal Trade Commission whether the Commission has issued an order to the institution to cease and desist from any act or practice, and (B) has, if such an order has been issued, given due weight to that fact.

(11) The institution does not exceed its enrollment limitations as established by the State approving agency.

(12) The institution's administrators, directors, owners, and instructors are of good reputation and character.

(13) The institution has and maintains a policy for the refund of the unused portion of tuition, fees, and other charges in the event the eligible person fails to enter the course or withdraws or is discontinued therefrom at any time prior to completion and such policy must provide that the amount charged to the eligible person for tuition, fees, and other charges for a portion of the course shall not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to its total length.

(14) Such additional criteria as may be deemed necessary by the State approving agency.

(Added Pub. L. 88-126, § 1, Sept. 23, 1963, 77 Stat. 159, and amended Pub. L. 89-358, § 3(a)(9), Mar. 3, 1966, 80 Stat. 21.)

AMENDMENTS

1966—Subsec. (a). Pub. L. 89-358 struck out "1653 or" preceding "1775".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1786 of this title.

§ 1777. Approval of training on the job

(a) Any State approving agency may approve a program of training on the job (other than a program of apprenticeship) only when it finds that the job which is the objective of the training is one in which progression and appointment to the next higher classification are based upon skills learned through organized and supervised training on the job and not on such factors as length of service and normal turnover, and that the provisions of subsections (b) and (c) of this section are met.

(b) The training establishment offering training which is desired to be approved for the purposes of this chapter must submit to the appropriate State approving agency a written application for approval which, in addition to furnishing such information as is required by the State approving agency, contains a certification that—

(1) the wages to be paid the eligible veteran or person (A) upon entrance into training, are not less than wages paid nonveterans in the same training position and are at least 50 per

centum of the wages paid for the job for which the veteran or person is to be trained, and (B) such wages will be increased in regular periodic increments until, not later than the last full month of the training period, they will be at least 85 per centum of the wages paid for the job for which such eligible veteran or person is being trained; and

(2) there is reasonable certainty that the job for which the eligible veteran or person is to be trained will be available to the veteran or person at the end of the training period.

(c) As a condition for approving a program of training on the job (other than a program of apprenticeship) the State approving agency must find upon investigation that the following criteria are met:

(1) The training content of the course is adequate to qualify the eligible veteran or person for appointment to the job for which the veteran or person is to be trained.

(2) The job customarily requires full-time training for a period of not less than six months and not more than two years.

(3) The length of the training period is not longer than that customarily required by the training establishments in the community to provide an eligible veteran or person with the required skills, arrange for the acquiring of job knowledge, technical information, and other facts which the eligible veteran or person will need to learn in order to become competent on the job for which the veteran or person is being trained.

(4) Provision is made for related instruction for the individual eligible veteran or person who may need it.

(5) There is in the training establishment adequate space, equipment, instructional material, and instructor personnel to provide satisfactory training on the job.

(6) Adequate records are kept to show the progress made by each eligible veteran or person toward such veteran's or person's job objective.

(7) No course of training will be considered bona fide if given to an eligible veteran or person who is already qualified by training and experience for the job.

(8) A signed copy of the training agreement for each eligible veteran or person, including the training program and wage scale as approved by the State approving agency, is provided to the veteran or person and to the Administrator and the State approving agency by the employer.

(9) That the course meets such other criteria as may be established by the State approving agency.

(Added Pub. L. 90-77, title III, § 304(d), Aug. 31, 1967, 81 Stat. 186, and amended Pub. L. 91-219, title II, § 212, Mar. 26, 1970, 84 Stat. 83; Pub. L. 92-540, title III, § 314, Oct. 24, 1972, 86 Stat. 1084; Pub. L. 94-502, title V, § 513(a)(3), Oct. 15, 1976, 90 Stat. 2402.)

PRIOR PROVISIONS

A prior section 1777 was renumbered section 1778.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-502 substituted "the veteran or person" for "he" and "him".

Subsec. (c). Pub. L. 94-502 substituted "the veteran or person" for "he" in two places, and "such veteran's or person's" for "his".

1972—Subsecs. (b), (c). Pub. L. 92-540 inserted "or person" following "veteran" wherever appearing therein.

1970—Subsec. (a). Pub. L. 91-219 inserted "and supervised" immediately after "organized".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE

Section effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1641, 1787 of this title.

§ 1778. Notice of approval of courses

The State approving agency, upon determining that an educational institution has complied with all the requirements of this chapter, will issue a letter to such institution setting forth the courses which have been approved for the purposes of this chapter, and will furnish an official copy of such letter and any subsequent amendments to the Administrator. The letter of approval shall be accompanied by a copy of the catalog or bulletin of the institution, as approved by the State approving agency, and shall contain the following information:

(1) date of letter and effective date of approval of courses;

(2) proper address and name of each educational institution;

(3) authority for approval and conditions of approval, referring specifically to the approved catalog or bulletin published by the educational institution;

(4) name of each course approved;

(5) where applicable, enrollment limitations such as maximum numbers authorized and student-teacher ratio;

(6) signature of responsible official of State approving agency; and

(7) such other fair and reasonable provisions as are considered necessary by the appropriate State approving agency.

(Added Pub. L. 88-126, § 1, Sept. 23, 1963, 77 Stat. 162, § 1777, renumbered Pub. L. 90-77, title III, § 304(d), Aug. 31, 1967, 81 Stat. 186.)

PRIOR PROVISIONS

A prior section 1778 was renumbered section 1779.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1770 of this title.

§ 1779. Disapproval of courses

(a) Any course approved for the purposes of this chapter which fails to meet any of the requirements of this chapter shall be immediately disapproved by the appropriate State approving agency. An educational institution which

has its courses disapproved by a State approving agency will be notified of such disapproval by a certified or registered letter of notification and a return receipt secured.

(b) Each State approving agency shall notify the Administrator of each course which it has disapproved under this section. The Administrator shall notify the State approving agency of the Administrator's disapproval of any educational institution under chapter 31 of this title.

(Added Pub. L. 88-126, § 1, Sept. 23, 1963, 77 Stat. 162, § 1778, renumbered Pub. L. 90-77, title III, § 304(d), Aug. 31, 1967, 81 Stat. 186, and amended Pub. L. 94-502, title V, § 513(a)(4), Oct. 15, 1976, 90 Stat. 2402.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-502 substituted "the Administrator's disapproval" for "his disapproval".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

SUBCHAPTER II—MISCELLANEOUS PROVISIONS

§ 1780. Payment of educational assistance or subsistence allowances

Period for Which Payment May Be Made

(a) Payment of educational assistance or subsistence allowances to eligible veterans or eligible persons pursuing a program of education or training, other than a program by correspondence or a program of flight training, in an educational institution under chapter 31, 34, or 35 of this title shall be paid as provided in this section and, as applicable, in section 1504, 1682, 1691, or 1732 of this title. Such payments shall be paid only for the period of such veterans' or persons' enrollment, but no amount shall be paid—

(1) to any eligible veteran or eligible person enrolled in a course which leads to a standard college degree for any period when such veteran or person is not pursuing such veteran's or person's course in accordance with the regularly established policies and regulations of the educational institution and the requirements of this chapter or of chapter 34 or 35 of this title;

(2) to any eligible veteran or eligible person enrolled in a course which does not lead to a standard college degree (excluding programs of apprenticeship and programs of other on-job training authorized by section 1787 of this title) for any day of absence in excess of thirty days in a twelve-month period, not counting as absences weekends or legal holidays (or customary vacation periods connected therewith) established by Federal or State law (or in the case of the Republic of the Philippines, Philippine law) during which the institution is not regularly in session;

(3) to any eligible veteran or person for auditing a course;

(4) to any eligible veteran or person for a course for which the grade assigned is not used in computing the requirements for graduation including a course from which the student withdraws unless the Administrator finds there are mitigating circumstances; or

(5) to any eligible veteran or person for pursuit of a program of education exclusively by correspondence as authorized under section 1786 of this title or for the pursuit of a correspondence portion of a combination correspondence-residence course leading to a vocational objective where the normal period of time required to complete such correspondence course or portion is less the[1] 6 months. A certification as to the normal period of time required to complete the course must be made to the Administrator by the educational institution.

Notwithstanding the foregoing, the Administrator may, subject to such regulations as the Administrator shall prescribe, continue to pay allowances to eligible veterans and eligible persons enrolled in courses set forth in clause (1) or (2) of this subsection—

(A) during periods when the schools are temporarily closed under an established policy based upon an Executive order of the President or due to an emergency situation, and such periods shall not be counted as absences for the purposes of clause (2);

(B) during periods between consecutive school terms where such veterans or persons transfer from one approved educational institution to another approved educational institution for the purpose of enrolling in and pursuing a similar course at the second institution if the period between such consecutive terms does not exceed 30 days, but such periods shall be counted as absences for the purposes of clause (2); or

(C) during periods between a semester, term, or quarter where the educational institution certifies the enrollment of the eligible veteran or eligible person on an individual semester, term, or quarter basis if the interval between such periods does not exceed 1 full calendar month, but such periods shall be counted as absences for the purposes of clause (2).

Correspondence Training Certifications

(b) No educational assistance allowance shall be paid to an eligible veteran or spouse or surviving spouse enrolled in and pursuing a program of education exclusively by correspondence until the Administrator shall have received—

(1) from the eligible veteran or spouse or surviving spouse a certificate as to the number of lessons actually completed by the veteran or spouse or surviving spouse and serviced by the educational institution; and

(2) from the training establishment a certification or an endorsement on the veteran's or spouse's or surviving spouse's certificate, as to the number of lessons completed by the veteran or spouse or surviving spouse and serviced by the institution.

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[1] So in original. Probably should be "than".

Apprenticeship and Other On-Job Training

(c) No training assistance allowance shall be paid to an eligible veteran or eligible person enrolled in and pursuing a program of apprenticeship or other on-job training until the Administrator shall have received—

(1) from such veteran or person a certification as to such veteran's or person's actual attendance during such period; and

(2) from the training establishment a certification, or an endorsement on the veteran's or person's certificate, that such veteran or person was enrolled in and pursuing a program of apprenticeship or other on-job training during such period.

Advance Payment of Initial Educational Assistance or Subsistance Allowance

(d)(1) The educational assistance or subsistance allowance advance payment provided for in this subsection is based upon a finding by the Congress that eligible veterans and eligible persons may need additional funds at the beginning of a school term to meet the expenses of books, travel, deposits, and payment for living quarters, the initial installment of tuition, and the other special expenses which are concentrated at the beginning of a school term.

(2) Subject to the provisions of this subsection, and under regulations which the Administrator shall prescribe, an eligible veteran or eligible person shall be paid an educational assistance allowance or subsistence allowance, as appropriate, advance payment. Such advance payment shall be made in an amount equivalent to the allowance for the month or fraction thereof in which pursuit of the program will commence, plus the allowance for the succeeding month. In the case of a serviceman on active duty, who is pursuing a program of education (other than under subchapter VI of chapter 34), the advance payment shall be in a lump sum based upon the amount payable for the entire quarter, semester, or term, as applicable. In no event shall an advance payment be made under this subsection to a veteran or person intending to pursue a program of education on less than a half-time basis. An advance payment may not be made under this subsection to any veteran or person unless the veteran or person requests such payment and the Administrator finds that the educational institution at which such veteran or person is accepted or enrolled has agreed to, and can satisfactorily, carry out the provisions of paragraphs 5(B) and (C) and (6) of this subsection. The application for advance payment, to be made on a form prescribed by the Administrator, shall—

(A) in the case of an initial enrollment of a veteran or person in an educational institution, contain information showing that the veteran or person (i) is eligible for educational benefits, (ii) has been accepted by the institution, and (iii) has notified the institution of such veteran's or person's intention to attend that institution; and

(B) in the case of a re-enrollment of a veteran or person, contain information showing that the veteran or person (i) is eligible to continue such veteran's or person's program of education or training and (ii) intends to re-enroll in the same institution,

and, in either case, shall also state the number of semester or clock-hours to be pursued by such veteran or person.

(3) Subject to the provisions of this subsection, and under regulations which the Administrator shall prescribe, a person eligible for education or training under the provisions of subchapter VI of chapter 34 of this title shall be entitled to a lump-sum educational assistance allowance advance payment. Such advance payment shall in no event be made earlier than thirty days prior to the date on which pursuit of the person's program of education or training is to commence. The application for the advance payment, to be made on a form prescribed by the Administrator, shall, in addition to the information prescribed in paragraph (2)(A), specify—

(A) that the program to be pursued has been approved;

(B) the anticipated cost and the number of Carnegie, clock, or semester hours to be pursued; and

(C) where the program to be pursued is other than a high school credit course, the need of the person to pursue the course or courses to be taken.

(4) For purposes of the Administrator's determination whether any veteran or person is eligible for an advance payment under this section, the information submitted by the institution, the veteran or person, shall establish such veteran's or person's eligibility unless there is evidence in such veteran's or person's file in the processing office establishing that the veteran or person is not eligible for such advance payment.

(5) The advance payment authorized by paragraphs (2) and (3) of this subsection shall, in the case of an eligible veteran or eligible person, be (A) drawn in favor of the veteran or person; (B) mailed to the educational institution listed on the application form for temporary care and delivery to the veteran or person by such institution; and (C) delivered to the veteran or person upon such veteran's or person's registration at such institution, but in no event shall such delivery be made earlier than thirty days before the program of education is to commence.

(6) Upon delivery of the advance payment pursuant to paragraph (5) of this subsection, the institution shall submit to the Administrator a certification of such delivery. If such delivery is not effected within thirty days after commencement of the program of education in question, such institution shall return such payment to the Administrator forthwith.

Recovery of Erroneous Payments

(e) If an eligible veteran or eligible person, fails to enroll in or pursue a course for which an educational assistance or subsistence allowance advance payment is made, the amount of such payment and any amount of subsequent payments which, in whole or in part, are due to erroneous information required to be furnished under subsections (d)(2) and (3) of this section, shall become an overpayment

and shall constitute a liability of such veteran or person to the United States and may be recovered, unless waived pursuant to section 3102 of this title, from any benefit otherwise due such veteran or person under any law administered by the Veterans' Administration or may be recovered in the same manner as any other debt due the United States.

Payments for Less Than Half-Time Training

(f) Payment of educational assistance allowance in the case of any eligible veteran or eligible person pursuing a program of education on less than a half-time basis (except as provided by subsection (d)(3) of this section) shall be made in an amount computed for the entire quarter, semester, or term during the month immediately following the month in which certification is received from the educational institution that such veteran or person has enrolled in and is pursuing a program at such institution. Such lump sum payment shall be computed at the rate provided in section 1682(b) or 1732(a)(2) of this title, as applicable.

Determination of Enrollment, Pursuit, and Attendance

(g) The Administrator may, pursuant to regulations which the Administrator shall prescribe, determine enrollment in, pursuit of, and attendance at, any program of education or training or course by an eligible veteran or eligible person for any period for which the veteran or person receives an educational assistance or subsistence allowance under this chapter for pursuing such program or course. Subject to such reports and proof as the Administrator may require to show an eligible veteran's or eligible person's enrollment in and satisfactory pursuit of such person's program, the Administrator is authorized to withhold the final payment of benefits to such person until the required proof is received and the amount of the final payment is appropriately adjusted.

(Added Pub. L. 92-540, title II, § 201, Oct. 24, 1972, 86 Stat. 1076, and amended Pub. L. 93-208, Dec. 28, 1973, 87 Stat. 907; Pub. L. 93-508, title II, § 209, Dec. 3, 1974, 88 Stat. 1584; Pub. L. 94-502, title V, §§ 505, 506, 513(a) (5)-(12), Oct. 15, 1976, 90 Stat. 2400, 2402, 2403.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502, §§ 505, 506, 513(a)(5), authorized the Administrator to continue allowances to eligible veterans and persons during periods between consecutive school terms where the veteran or person transfers from one approved school to another approved school, provided the period not exceed 30 days, and during periods between a semester, term, or quarter where the educational institution certifies the enrollment of the veteran or person on an individual semester, term, or quarter basis, provided that the period not exceed 1 full calendar month, substituted "such veteran's or person's" for "his", and added cls. (3) to (5).

Subsec. (b). Pub. L. 94-502, § 513(a)(5), substituted "spouse or surviving spouse" for "wife or widow" wherever appearing, and "spouse's or surviving spouse's" for "wife's or widow's".

Subsec. (c). Pub. L. 94-502, § 513(a)(6), substituted "such veteran's or person's" for "his".

Subsec. (d). Pub. L. 94-502, § 513(a) (6), (7), (8), substituted "persons may need" for "persons need" in cl. (1), "such veteran's or person's" for "his" in two places and added provision prohibiting advance payments unless the veteran request them and the Administrator finds that the educational institution has agreed to and can carry out the requirements of cls. (5) (B), (C) and (6) of this subsection in cl. (2), substituted "such veteran's or person's" for "his" in two places and "the veteran or person" for "he" in cl. (4), and "such veteran's or person's" for "his" in cl. (5).

Subsec. (e). Pub. L. 94-502, § 513(a) (9), (10), (11), struck out subsec. (e), which provided for prepayment of subsequent educational assistance or subsistence allowances, redesignated former subsec. (f) as (e), and as so redesignated, substituted "such veteran or person" for "him".

Subsec. (f). Pub. L. 94-502, § 513(a)(10) redesignated former subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 94-502, § 513(a)(10), (12), redesignated former subsec. (h) as (g), and as so redesignated, substituted "which the Administrator shall" for "which he shall", "the veteran or person" for "he", and authorized the Administrator to withhold final payment of benefits to the veteran or person until proof of the veteran's or person's enrollment in and satisfactory pursuit of the educational program is received.

Subsec. (h). Pub. L. 94-502, § 513(a)(10), redesignated former subsec. (h) as (g).

1974—Subsec. (a)(2). Pub. L. 93-508 substituted "legal holidays (or customary vacation periods connected therewith)" for "legal holidays".

1973—Subsec. (a). Pub. L. 93-208 added provisions that the Administrator may continue to pay allowances to eligible veterans and eligible persons enrolled in courses set forth in cl. (1) or (2) of this subsection during periods when the schools are temporarily closed under an established policy based upon an Executive Order of the President or due to an emergency situation, and that such periods shall not be counted as absences for the purposes of cl. (2).

EFFECTIVE DATE OF 1976 AMENDMENT

Section 513(b) of Pub. L. 94-502 provided that: "The amendments made by paragraphs (7), (8), (9), and (10) of subsection (a) [amending subsecs. (d) to (g) of this section] shall take effect June 1, 1977, and shall apply with respect to educational assistance allowances and subsistence allowances paid under title 38, United States Code, for months after May 1977."

Amendment of subsec. (a) by section 505 of Pub. L. 94-502, adding cls. (3) to (5), effective Dec. 1, 1976, see section 703(c) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

Amendment of subsec. (a) by sections 506 and 513(a)(5) of Pub. L. 94-502, authorizing the Administrator to continue allowances for veterans and persons during the period between transfers and semesters, terms, or quarters, and substituting "such veteran's or person's" for "his", effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under sect.on 1504 of this title. Amendment of subsecs. (b) to (g) by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

EFFECTIVE DATE

Section 603 of Pub. L. 92-540 provided that:

"(a) The prepayment provisions of [former] subsection (e) of section 1780 of title 38, United States Code (as added by section 201 of this Act), shall become effective on November 1, 1972.

"(b) The advance payment provisions of section 1780 of title 38, United States Code (as added by section 201 of this Act), shall become effective on August 1, 1973,

or at such time prior thereto as the Administrator of Veterans' Affairs shall specify in a certification filed with the Committees on Veterans' Affairs of the Congress."

STUDY OF TUITION ASSISTANCE ALLOWANCE PROGRAM ABUSES

Section 105 of Pub. L. 93-508 authorized the Administrator to study the potential administrative difficulties and abuses that would arise if some form of variable tuition assistance allowance program were enacted after consideration of past difficulties and abuses which arose after the Second World War and such difficulties and abuses as were being experienced by the Veterans' Administration in managing certain current programs, and to report to the Congress and the President his findings and recommendations for legislative and administrative action no later than one year after Dec. 3, 1974.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1502, 1641, 1784, 1790 of this title.

§ 1781. Limitations on educational assistance

No educational assistance allowance granted under chapter 34, 35, or 36 of this title shall be paid to any eligible person (1) who is on active duty and is pursuing a course of education which is being paid for by the Armed Forces (or by the Department of Health, Education, and Welfare in the case of the Public Health Service); or (2) who is attending a course of education or training paid for under the Government Employees' Training Act and whose full salary is being paid to such person while so training.

(Added Pub. L. 89-358, § 3(b), Mar. 3, 1966, 80 Stat. 21, and amended Pub. L. 91-219, title II, § 213(1), Mar. 26, 1970, 84 Stat. 83; Pub. L. 92-540, title IV, § 403(8), Oct. 24, 1972, 86 Stat. 1090; Pub. L. 94-502, title V, § 513(a)(13), Oct. 15, 1976, 90 Stat. 2403.)

REFERENCES IN TEXT

The Government Employees Training Act, referred to in text, is Pub. L. 85-507, July 7, 1958, 72 Stat. 327, as amended, which was repealed and the provisions thereof reenacted as chapter 41 (§ 4101 et seq.) of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378. Section 7(b) of Pub. L. 89-554, provided "A reference to a law replaced by sections 1-6 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act".

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1182, 1201 (which was classified to sections 1632(h)(1) and 1762(b) of this title) prior to repeal thereof by sections 4(a) and 3(a)(2) of Pub. L. 89-358, respectively.

AMENDMENTS

1976—Pub. L. 94-502 substituted "such person" for "him".

1972—Pub. L. 92-540 substituted "granted under chapter 34, 35, or 36" for "or special training allowance granted under chapter 34 or 35".

1970—Pub. L. 91-219 substituted "Limitations on educational assistance" for "Nonduplication of benefits" as the section catchline and limited the duplication of benefits bar to cases of persons on active duty with the Armed Forces or the Public Health Service whose education or training costs are being paid by the Federal Government and persons receiving education or training under the Government Employees' Training Act being paid their full salary during that period.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

DUPLICATION OF BENEFITS

Pub. L. 90-574, title V, § 504, Oct. 15, 1968, 82 Stat. 1012, relating to duplication of benefits, was repealed by Pub. L. 91-219, title II, § 215(a), Mar. 26, 1970, 84 Stat. 85.

§ 1782. Control by agencies of the United States

No department, agency, or officer of the United States, in carrying out this chapter, shall exercise any supervision or control, whatsoever, over any State approving agency, or State educational agency, or any educational institution. Nothing in this section shall be deemed to prevent any department, agency, or officer of the United States from exercising any supervision or control which such department, agency, or officer is authorized by law to exercise over any Federal educational institution or to prevent the furnishing of education under this chapter or chapter 34 or 35 of this title in any institution over which supervision or control is exercised by such other department, agency, or officer under authority of law.

(Added Pub. L. 89-358, § 3(b), Mar. 3, 1966, 80 Stat. 21, and amended Pub. L. 92-540, title IV, § 403(9), Oct. 24, 1972, 86 Stat. 1090.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1190, 1201 (which was classified to sections 1663 and 1763 of this title) prior to repeal thereof by sections 4(a) and 3(a)(3) of Pub. L. 89-358, respectively.

AMENDMENTS

1972—Pub. L. 92-540 added reference to this chapter.

§ 1783. Conflicting interests

(a) Every officer or employee of the Veterans' Administration who has, while such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, any educational institution operated for profit in which an eligible person or veteran was pursuing a program of education or course under this chapter or chapter 34 or 35 shall be immediately dismissed from such officer's or employee's office or employment.

(b) If the Administrator finds that any person who is an officer or employee of a State approving agency has, while such person was such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, an educational institution operated for profit in which an eligible person or veteran was pursuing a program of education or course under this chapter or chapter 34 or 35 of this title, the Administrator shall discontinue making payments under section 1774 of this title to such State approving agency unless such agency shall, without delay, take such steps as may be necessary to terminate the employment of such person and such

payments shall not be resumed while such person is an officer or employee of the State approving agency, or State department of veterans' affairs or State department of education.

(c) A State approving agency shall not approve any course offered by an educational institution operated for profit, and, if any such course has been approved, shall disapprove each such course, if it finds that any officer or employee of the Veterans' Administration or the State approving agency owns an interest in, or receives any wages, salary, dividends, profits, gratuities, or services from, such institution.

(d) The Administrator may, after reasonable notice and public hearings, waive in writing the application of this section in the case of any officer or employee of the Veterans' Administration or of a State approving agency, if the Administrator finds that no detriment will result to the United States or to eligible persons or veterans by reasons of such interest or connection of such officer or employee.

(Added Pub. L. 89-358, § 3(b), Mar. 3, 1966, 80 Stat. 22, and amended Pub. L. 92-540, title IV, § 403(10), Oct. 24, 1972, 86 Stat. 1090; Pub. L. 94-502, title V, § 513(a)(14)-(16), Oct. 15, 1976, 90 Stat. 2403.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1190, 1201 (which was classified to sections 1664 and 1764 of this title) prior to repeal thereof by sections 4(a) and 3(a)(3) of Pub. L. 89-358, respectively.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502, § 513(a)(14), substituted "such officer's or employee's" for "his".

Subsec. (b). Pub. L. 94-502, § 513(a)(15), substituted "while such person was" for "while he was" and "the Administrator shall discontinue" for "he shall discontinue".

Subsec. (d). Pub. L. 94-502, § 513(a)(16), substituted "if the Administrator finds" for "if he finds".

1972—Subsecs. (a), (b). Pub. L. 92-540 added references to this chapter wherever appearing therein.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

§ 1784. Reports by institutions; reporting fee

(a) Educational institutions shall, without delay, report to the Administrator in the form prescribed by the Administrator, the enrollment, interruption, and termination of the education of each eligible person or veteran enrolled therein under chapter 34, 35, or 36. The date of interruption or termination will be the last date of pursuit or, in the case of correspondence training, the last date a lesson was serviced by the school.

(b) The Administrator may pay to any educational institution, or to any joint apprenticeship training committee acting as a training establishment, furnishing education or training under either this chapter or chapter 34 or 35 of this title, a reporting fee which will be in lieu of any other compensation or reimbursement for reports or certifications which such educational institution or joint apprenticeship training committee is required to submit to the Administrator by law or regulation. Such reporting fee shall be computed for each calendar year by multiplying $5 by the number of eligible veterans or eligible persons enrolled under this chapter or chapter 34 or 35 of this title, or $6 in the case of those eligible veterans and eligible persons whose educational assistance checks are directed in care of each institution for temporary custody and delivery and are delivered at the time of registration as provided under section 1780(d)(5) of this title, on October 31 of that year; except that the Administrator may, where it is established by such educational institution or joint apprenticeship training committee that eligible veteran plus eligible person enrollment on such date varies more than 15 per centum from the peak eligible veteran enrollment plus eligible person enrollment in such educational institution or joint apprenticeship training committee during such calendar year, establish such other date as representative of the peak enrollment as may be justified for such educational institution or joint apprenticeship training committee. The reporting fee shall be paid to such educational institution or joint apprenticeship training committee as soon as feasible after the end of the calendar year for which it is applicable.

(Added Pub. L. 89-358, § 3(b), Mar. 3, 1966, 80 Stat. 22, and amended Pub. L. 90-77, title III, § 308(a), Aug. 31, 1967, 81 Stat. 189; Pub. L. 92-540, title III, § 315, Oct. 24, 1972, 86 Stat. 1084; Pub. L. 93-508, title II, § 210(2), Dec. 3, 1974, 88 Stat. 1585; Pub. L. 94-502, title V, §§ 507, 508, 513(a)(17), Oct. 15, 1976, 90 Stat. 2400, 2403.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1191, 1202 (which was classified to sections 1665(a) and 1765(a) of this title) prior to repeal thereof by sections 4(a) and 3(a)(3) of Pub. L. 89-358, respectively.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502, §§ 507, 513(a)(17), substituted "prescribed by the Administrator" for "prescribed by him", and specified the date of interruption or termination as the last date of pursuit, or in the case of a correspondence school, the last date a lesson was serviced.

Subsec. (b). Pub. L. 94-502, §§ 508, 513(a)(17), substituted "$5" for "$3", "$6" for "$4", and "submit to the Administrator" for "submit to him".

1974—Subsec. (b). Pub. L. 93-508 extended the payment of reporting fee to educational institutions under this chapter and to joint apprenticeship training committees acting as training establishments, and in provisions relating to computation of such fee, substituted reference to this chapter for reference to chapter 36 of this title.

1972—Subsec. (a). Pub. L. 92-540, § 315(1), added reference to chapter 36 of this title.

Subsec. (b). Pub. L. 92-540, § 315(1), (2), (3), added reference to chapter 36 of this title, and substituted provisions relating to the computation of the reporting fee based on the number of eligible veterans or eligible persons enrolled under chapter 34, 35, or 36 of this title, or based on eligible veterans and eligible persons whose educational assistance checks are directed in care of such institution for temporary custody and delivery and are delivered at the time of registration as provided under section 1780(d)(5) of this title, for provisions relating to the computation of such fee based on eligible veterans enrolled under chapter 34 of

this title, plus the number of eligible persons enrolled under chapter 35 of this title.

1967—Pub. L. 90-77, § 308(a)(1), provided for the reporting fee in the catchline.

Subsec. (a). Pub. L. 90-77, § 308(a)(2), designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 90-77, § 308(a)(3), added subsec. (b).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment of subsec. (a) by section 507 of Pub. L. 94-502, specifying the date of interruption or termination, effective Dec. 1, 1976, see section 703(c) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

Amendment of subsec. (a) by section 513(a)(17) of Pub. L. 94-502, substituting "prescribed by the Administrator" for "prescribed by him", effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

Amendment of subsec (b) by section 508 of Pub. L. 94-502, substituting "$5" for "$3" and "$6" for "$4", effective Oct. 1, 1976, see section 703(a) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

Amendment of subsec. (b) by section 513(a)(17), substituting "submit to the Administrator" for "submit to him", effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

§ 1785. Overpayments to eligible persons or veterans

Whenever the Administrator finds that an overpayment has been made to an eligible person or veteran as the result of (1) the willful or negligent failure of an educational institution to report, as required by this chapter or chapter 34 or 35 of this title and applicable regulations, to the Veterans' Administration excessive absences from a course, or discontinuance or interruption of a course by the eligible person or veteran, or (2) false certification by an educational institution, the amount of such overpayment shall constitute a liability of such institution, and may be recovered in the same manner as any other debt due the United States. Any amount so collected shall be reimbursed if the overpayment is recovered from the eligible person or veteran. This section shall not preclude the imposition of any civil or criminal liability under this or any other law.

(Added Pub. L. 89-358, § 3(b), Mar. 3, 1966, 80 Stat. 22, and amended Pub. L. 92-540, title IV, § 403(11), Oct. 24, 1972, 86 Stat. 1090.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1191, 1202 (which was classified to sections 1666 and 1766 of this title) prior to repeal thereof by sections 4(a) and 3(a)(3) of Pub. L. 89-358, respectively.

AMENDMENTS

1972—Pub. L. 92-540 added reference to this chapter.

§ 1786. Correspondence courses

(a)(1) Each eligible veteran (as defined in section 1652(a)(1) and (2) of this title) and each eligible spouse or surviving spouse (as defined in section 1701(a)(1)(B), (C), or (D) of this title) who enters into an enrollment agreement to pursue a program of education exclusively by correspondence shall be paid an educational assistance allowance computed at the rate of 90 per centum of the established charge which the institution requires nonveterans to pay for the course or courses pursued by the eligible veteran or spouse or surviving spouse. The term "established charge" as used herein means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost to the veteran or spouse or surviving spouse, whichever is the lesser. Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the veteran or spouse or surviving spouse and serviced by the institution.

(2) The period of entitlement of any veteran or spouse or surviving spouse who is pursuing any program of education exclusively by correspondence shall be charged with one month for each $292 which is paid to the veteran or spouse or surviving spouse as an educational assistance allowance for such course.

(b) The enrollment agreement shall fully disclose the obligation of both the institution and the veteran or spouse or surviving spouse and shall prominently display the provisions for affirmance, termination, refunds, and the conditions under which payment of the allowance is made by the Administrator to the veteran or spouse or surviving spouse. A copy of the enrollment agreement shall be furnished to each such veteran or spouse or surviving spouse at the time such veteran or spouse or surviving spouse signs such agreement. No such agreement shall be effective unless such veteran or spouse or surviving spouse shall, after the expiration of ten days after the enrollment agreement is signed, have signed and submitted to the Administrator a written statement, with a signed copy to the institution, specifically affirming the enrollment agreement. In the event the veteran or spouse or surviving spouse at any time notifies the institution of such veteran's or spouse's intention not to affirm the agreement in accordance with the preceding sentence, the institution, without imposing any penalty or charging any fee shall promptly make a full refund of all amounts paid.

(c) In the event a veteran or spouse or surviving spouse elects to terminate such veteran's or spouse's enrollment under an affirmed enrollment agreement, the institution (other than one subject to the provisions of section 1776 of this title) may charge the veteran or spouse or surviving spouse a registration or similar fee not in excess of 10 per centum of the tuition for the course, or $50, whichever is less. Where the veteran or spouse or surviving spouse elects to terminate the agreement after completion of

one or more but less than 25 per centum of the total number of lessons comprising the course, the institution may retain such registration or similar fee plus 25 per centum of the tuition for the course. Where the veteran or spouse or surviving spouse elects to terminate the agreement after completion of 25 per centum but less than 50 per centum of the lessons comprising the course, the institution may retain the full registration or similar fee plus 50 per centum of the course tuition. If 50 per centum or more of the lessons are completed, no refund of tuition is required.

(Added Pub. L. 92-540, title III, § 316(1), Oct. 24, 1972, 86 Stat. 1084, and amended Pub. L. 93-508, title I, § 104(1), Dec. 3, 1974, 88 Stat. 1580; Pub. L. 93-602, title II, § 205(a), Jan. 2, 1975, 88 Stat. 1958; Pub. L. 94-502, title V, §§ 501(1), 513(a)(18), Oct. 15, 1976, 90 Stat. 2398, 2403.)

PRIOR PROVISIONS

A prior section 1786, added Pub. L. 89-358, § 3(b), Mar. 3, 1966, 80 Stat. 23, which related to the examination of records was repealed by section 316(1) of Pub. L. 92-540. See now section 1790 of this title.

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-502, § 513(a)(18), substituted "spouse or surviving spouse" for "wife or widow" wherever appearing.

Subsec. (a)(2). Pub. L. 94-502, §§ 501(1), 513(a)(18), substituted "spouse or surviving spouse" for "wife or widow" in two instances and "$292" for "$270".

Subsecs. (b), (c). Pub. L. 94-502, § 513(a)(18), substituted "spouse or surviving spouse" for "wife or widow" wherever appearing and "such veteran's or spouse's" for "his".

1975—Subsec. (a)(2). Pub. L. 93-602 substituted "$270" for "$260".

1974—Subsec. (a)(2). Pub. L. 93-508 substituted "$260" for "220".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment of subsec. (a) by section 501(1) of Pub. L. 94-502, substituting "$292" for "$270", effective Oct. 1, 1976, see section 703(a) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

Amendment of subsec. (a) by section 513(a)(18) of Pub. L. 94-502, substituting "spouse or surviving spouse" for "wife or widow", effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

Amendment of subsecs. (b) and (c) by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-602 effective Jan. 1, 1975, see section 206 of Pub. L. 93-602, set out as an Effective Date of 1975 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Sept. 1, 1974, see section 501 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1501 of this title.

EFFECTIVE DATE

Section 602 of Pub. L. 92-540 provided that:

"(a) The provisions of section 1786 of title 38, United States Code (as added by section 316 of this Act), which apply to programs of education exclusively by correspondence, shall, as to those wives and widows made eligible for such training by that section, become effective January 1, 1973, and, as to eligible veterans, shall apply only to those enrollment agreements which are entered into on or after January 1, 1973.

"(b) Notwithstanding the provisions of subsection (a) of this section, any enrollment agreement entered into by an eligible veteran prior to January 1, 1973, shall continue to be subject to the provisions of section 1682(c) of title 38, United States Code, prior to its repeal by section 303 of this Act."

TERMINATION OF ELIGIBILITY PERIOD

Termination of eligibility period for a wife or widow, or an eligible person eight years from Oct. 24, 1972, see section 604 of Pub. L. 92-540, set out as a note under section 1712 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1684, 1723, 1734, 1780 of this title.

§ 1787. Apprenticeship or other on-job training

(a) An eligible veteran (as defined in section 1652(a)(1) of this title) or an eligible person (as defined in section 1701(a) of this title) shall be paid a training assistance allowance as prescribed by subsection (b) of this section while pursuing a full-time—

(1) program of apprenticeship approved by a State approving agency as meeting the standards of apprenticeship published by the Secretary of Labor pursuant to section 50a of title 29, or

(2) program of other on-job training approved under provisions of section 1777 of this title,

subject to the conditions and limitations of chapters 34 and 35 with respect to educational assistance.

(b)(1) The monthly training assistance allowance of an eligible veteran pursuing a program described under subsection (a) shall be as follows:

Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$212	$238	$260	$11
Second 6 months	159	185	207	11
Third 6 months	106	132	154	11
Fourth and any succeeding 6-month periods	53	79	101	11

(2) The monthly training assistance allowance of an eligible person pursuing a program described under subsection (a) shall be computed at the rate prescribed in paragraph (1) of this subsection for an eligible veteran with no dependents pursuing such a course.

(3) In any month in which an eligible veteran or person pursuing a program of apprenticeship or a program of other on-job training fails to complete one hundred and twenty hours of training in such month, the monthly training

assistance allowance set forth in subsection (b)(1) or (2) of this section, as applicable, shall be reduced proportionately in the proportion that the number of hours worked bears to one hundred and twenty hours rounded off to the nearest eight hours.

(c) For the purpose of this chapter, the terms "program of apprenticeship" and "program of other on-job training" shall have the same meaning as "program of education"; and the term "training assistance allowance" shall have the same meaning as "educational assistance allowance" as set forth in chapters 34 and 35 of this title.

(Added Pub. L. 92-540, title III, § 316(1), Oct. 24, 1972, 86 Stat. 1084, and amended Pub. L. 93-508, title I, § 104(2), (3), Dec. 3, 1974, 88 Stat. 1580; Pub. L. 93-602, title II, § 205(b), Jan. 2, 1975, 88 Stat. 1959; Pub. L. 94-502, title V, § 501(2), Oct. 15, 1976, 90 Stat. 2398.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 1683, as added by Pub. L. 90-77, title III, § 304(a), Aug. 31, 1967, 81 Stat. 186, and amended Pub. L. 91-219, title I, § 103(e), Mar. 26, 1970, 84 Stat. 77; Pub. L. 91-584, § 7, Dec. 24, 1970, 84 Stat. 1576, prior to repeal by section 401(6) of Pub. L. 92-540.

A prior section 1787, added Pub. L. 89-358, § 3(b), Mar. 3, 1966, 80 Stat. 23, which related to the submission of false or misleading statements by educational institutions, persons or veterans, was repealed by section 316(1) of Pub. L. 92-540. See section 1790 of this title.

AMENDMENTS

1976—Subsec. (b)(1). Pub. L. 94-502 increased the monthly training assistance allowance of eligible veterans in column II from "$196", "$147", "$98", and "$49" to "$212", "$159", "$106", and "$53"; in column III from "$220", "$171", "$122", and "$73" to "$238", "$185", "$132", and "$79"; in column IV from "$240", "$191", "$142", and "$93" to "$260", "$207", "$154", and "$101"; and in column V from "$10", "$10", "$10", and "$10" to "$11", "$11", "$11", and "$11" respectively.

1975—Subsec. (b)(1). Pub. L. 93-602 increased the monthly training assistance allowance of eligible veterans in column II from "$189", "$142", "$95", and "$47" to "$196", "$147", "$98", and "$49"; in column III from "$212", "$164", "$117", "$70" to "$220", "$171", "$122", and "$73"; in column IV from "$232", "$184", "$137", and "$90" to "$240", "$191", "$142", and "$93"; and in column V from "$9", "$9", "$9", and "$9" to "$10", "$10", "$10", and "$10" respectively.

1974—Subsec. (b)(1). Pub. L. 93-508, § 104(2), increased the monthly training assistance allowance of eligible veterans in column II from "$160, $120, $80, and $40" to "$189, $142, $95, and $47"; in column III from "$179, $139, $99, and $59" to "$212, $164, $117, and $70"; in column IV from "$196, $156, $116, and $76" to "$232, $184, $137, and $90"; and in column V from "$8, $8, $8, and $8" to "$9, $9, $9, and $9" respectively.

Subsec. (b)(2). Pub. L. 93-508, § 104(3), substituted "computed at the rate prescribed in paragraph (1) of this subsection for an eligible veteran with no dependents pursuing such a course" for "(A) $160 during the first six-month period, (B) $120 during the second six-month period, (C) $80 during the third six-month period, and (D) $40 during the fourth and any succeeding six-month period".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Oct. 1, 1976, see section 703(a) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-602 effective Jan. 1, 1975, see section 206 of Pub. L. 93-602, set out as an Effective Date of 1975 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Sept. 1, 1974, see section 501 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1501 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1972, except for those veterans and eligible persons in training on Oct. 24, 1972, see section 601(a) of Pub. L. 92-540, set out as an Effective Date of 1972 Amendment note under section 1502 of this title.

TERMINATION OF ELIGIBILITY PERIOD

Termination of eligibility period for a wife or widow, or an eligible person eight years from Oct. 24, 1972, see section 604 of Pub. L. 92-540, set out as a note under section 1712 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1641, 1682, 1684, 1734, 1772, 1780 of this title.

§ 1788. Measurement of courses

(a) For the purposes of this chapter and chapters 34 and 35 of this title—

(1) an institutional trade or technical course offered on a clock-hour basis, not leading to a standard college degree, involving shop practice as an integral part thereof, shall be considered a full-time course when a minimum of thirty hours per week of attendance is required with no more than two and one-half hours of rest periods per week allowed, but if such course is approved pursuant to section 1775 of this title, then 27 hours per week of attendance, with no more than 2½ hours of rest period per week allowed and excluding supervised study, shall be considered full time;

(2) an institutional course offered on a clock-hour basis, not leading to a standard college degree, in which theoretical or classroom instruction predominates shall be considered a full-time course when a minimum of twenty-five hours per week not of instruction (which may include customary intervals not to exceed ten minutes between hours of instruction) is required, but if such course is approved pursuant to section 1775 of this title, then 22 hours per week net of instruction (excluding supervised study), which may include customary intervals not to exceed ten minutes between hours of instruction, shall be considered full time;

(3) an academic high school course requiring sixteen units for a full course shall be considered a full-time course when (A) a minimum of four units per year is required or (B) an individual is pursuing a program of education leading to an accredited high school diploma at a rate which, if continued, would result in receipt of such a diploma in four ordinary school years. For the purpose of subclause (A) of this clause, a unit is defined to

be not less than one hundred and twenty sixty-minute hours or their equivalent of study in any subject in one academic year;

(4) an institutional undergraduate course offered by a college or university on a quarter- or semester-hour basis shall be considered a full-time course when a minimum of fourteen semester hours or the equivalent thereof (including such hours for which no credit is granted but which are required to be taken to correct an educational deficiency and which the educational institution considers to be quarter or semester hours for other administrative purposes), for which credit is granted toward a standard college degree, is required, except that where such college or university certifies, upon the request of the Administrator, that (A) full-time tuition is charged to all undergraduate students carrying a minimum of less than fourteen such semester hours or the equivalent thereof, or (B) all undergraduate students carrying a minimum of less than fourteen such semester hours or the equivalent thereof, are considered to be pursuing a full-time course for other administrative purposes, then such an institutional undergraduate course offered by such college or university with such minimum number of such semester hours shall be considered a full-time course, but in the event such minimum number of semester hours is less than twelve semester hours or the equivalent thereof, then twelve semester hours or the equivalent thereof shall be considered a full-time course;

(5) a program of apprenticeship or a program of other on-job training shall be considered a full-time program when the eligible veteran or person is required to work the number of hours constituting the standard workweek of the training establishment, but a workweek of less than thirty hours shall not be considered to constitute full-time training unless a lesser number of hours has been established as the standard workweek for the particular establishment through bona fide collective bargaining; and

(6) an institutional course offered as part of a program of education, not leading to a standard college degree, under section 1691(a)(2) or 1696(a)(2) of this title shall be considered a full-time course on the basis of measurement criteria provided in clause (2), (3), or (4) as determined by the educational institution.

Notwithstanding the provisions of clause (1) or (2) of this subsection, an educational institution offering courses not leading to a standard college degree may measure such courses on a quarter- or semester-hour basis (with full time measured on the same basis as provided by clause (4) of this subsection); but (A) the academic portions of such courses must require outside preparation and be measured on not less than one quarter or one semester hour for each fifty minutes net of instruction per week or quarter or semester; (B) the laboratory portions of such courses must be measured on not less than one quarter or one semester hour for each two hours of attendance per week per quarter or semester; and (C) the shop portions of such courses must be measured on not less than one quarter or one semester hour for each three hours of attendance per week per quarter or semester. In no event shall such course be considered a full-time course when less than twenty-two hours per week of attendance is required.

(b) The Administrator shall define part-time training in the case of the types of courses referred to in subsection (a), and shall define full-time and part-time training in the case of all other types of courses pursued under this chapter or chapter 34 or 35 of this title.

(Added Pub. L. 92-540, title III, § 316(2), Oct. 24, 1972, 86 Stat. 1086, and amended Pub. L. 93-508, title II, § 211, Dec. 3, 1974, 88 Stat. 1585; Pub. L. 94-502, title V, § 509(a), Oct. 15, 1976, 90 Stat. 2400.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 1684, as added by Pub. L. 89-358, § 2, Mar. 3, 1966, 80 Stat. 18, § 1683, renumbered Pub. L. 90-77, title III, § 304(a), Aug. 31, 1967, 81 Stat. 186, and amended Pub. L. 91-219, title II, § 206(a), Mar. 26, 1970, 84 Stat. 81; Pub. L. 91-584, §§ 8, 11, Dec. 24, 1970, 84 Stat. 1577; and former section 1733, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1198; Pub. L. 91-219, title II, § 206(b), Mar. 26, 1970, 84 Stat. 82; Pub. L. 91-584, § 12, Dec. 24, 1970, 84 Stat. 1577, prior to the general revision by Pub. L. 92-540.

A prior section 1788 was renumbered section 1792.

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-502, § 509(a)(1), provided that, if a course was approved pursuant to section 1775 of this title, then 27 hours of attendance per week with no more than 2½ hours of rest period per week would be considered full time.

Subsec. (a)(2). Pub. L. 94-502, § 509(a)(2), provided that, if a course was approved pursuant to section 1775 of this title, then 22 hours of instruction per week with a ten minute interval between hours would be considered full time.

1974—Subsec. (a). Pub. L. 93-508 in cl. (1) substituted "basis, not leading to a standard college degree involving" for "basis below the college level involving"; in cl. (2) substituted "basis, not leading to a standard college degree, in which" for "basis below the college level in which"; in cl. (6) substituted "not leading to a standard college degree" for "below the college level"; and following cl. (6), added provisions that notwithstanding cls. (1) and (2) of this subsection, an educational institution offering courses not leading to a standard college degree may measure such courses on a quarter- or semester-hour basis with special requirements for the academic, laboratory, and shop portions of such courses, and that in no event such course be considered a full-time course unless twenty-two hours per week of attendance is required.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2014 of this title.

§ 1789. Period of operation for approval

(a) The Administrator shall not approve the enrollment of an eligible veteran or eligible person in any course offered by an educational institution when such course has been in operation for less than two years.

(b) Subsection (a) shall not apply to—

(1) any course to be pursued in a public or other tax-supported educational institution;

(2) any course which is offered by an educational institution which has been in operation for more than two years, if such course is similar in character to the instruction previously given by such institution;

(3) any course which has been offered by an institution for a period of more than two years, notwithstanding the institution has moved to another location within the same general locality, or has made a complete move with substantially the same faculty, curricula, and students, without change in ownership;

(4) any course which is offered by a nonprofit educational institution of college level and which is recognized for credit toward a standard college degree;

(5) any course offered by a proprietary nonprofit educational institution which qualifies to carry out an approved program of education under the provisions of subchapter V or VI of chapter 34 of this title (including those courses offered at other than the institution's principal location) if the institution offering such course has been in operation for more than two years; or

(6) any course offered by an educational institution under a contract with the Department of Defense that (A) is given on, or immediately adjacent to, a military base; (B) is available only to active duty military personnel and/or their dependents and (C) has been approved by the State approving agency of the State in which the base is located.

(c) Notwithstanding the provisions of subsection (b)(1), (2), (3), or (4) of this section, the provisions of subsection (a) shall apply to any course offered by a branch or extension of—

(1) a public or other tax-supported institution where the branch or extension is located outside of the area of the taxing jurisdiction providing support to such institution; or

(2) a proprietary profit or proprietary nonprofit educational institution where the branch or extension is located beyond the normal commuting distance of such institution.

(Added Pub. L. 92-540, title III, § 316(2), Oct. 24, 1972, 86 Stat. 1087, and amended Pub. L. 94-502, title V, § 509(b), Oct. 15, 1976, 90 Stat. 2401.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 1675, as added by Pub. L. 89-358, § 2, Mar. 3, 1966, 80 Stat. 16; and former section 1725, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1197, prior to repeal by sections 401(6) and 402(2) of Pub. L. 92-540, respectively.

A prior section 1789, which required the Administrator not to approve of enrollments in courses in institutions listed by the Attorney General under section 12 of Ex. Ord. No. 10450, was renumbered section 1793.

AMENDMENTS

1976—Subsec. (b)(6). Pub. L. 94-502, § 509(b)(1) to (3), added subsec. (b)(6).

Subsec. (c). Pub. L. 94-502, § 509(b)(4), added subsec. (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1673 of this title.

§ 1790. Overcharges by educational institutions; discontinuance of allowances; examination of records; false or misleading statements

Overcharges by Educational Institutions

(a) If the Administrator finds that an educational institution has—

(1) charged or received from any eligible veteran or eligible person pursuing a program of education under this chapter or chapter 34 or 35 of this title any amount for any course in excess of the charges for tuition and fees which such institution requires similarly circumstanced nonveterans not receiving assistance under such chapters who are enrolled in the same course to pay, or

(2) instituted, after the effective date of section 1780 of this title, a policy or practice with respect to the payment of tuition, fees, or other charges in the case of eligible veterans and the Administrator finds that the effect of such policy or practice substantially denies to veterans the benefits of the advance and prepayment allowances under such section,

the Administrator may disapprove such educational institution for the enrollment of any eligible veteran or eligible person not already enrolled therein under this chapter or chapter 31, 34, or 35, of this title.

Discontinuance of Allowances

(b) The Administrator may discontinue the educational assistance allowance of any eligible veteran or eligible person if the Administrator finds that the program of education or any course in which the veteran or person is enrolled fails to meet any of the requirements of this chapter or chapter 34 or 35 of this title, or if the Administrator finds that the educational institution offering such program or course has violated any provision of this chapter or chapter 34 or 35, or fails to meet any of the requirements of such chapters.

Examination of Records

(c) Notwithstanding any other provision of law, the records and accounts of educational institutions pertaining to eligible veterans or eligible persons who received educational assistance under this chapter or chapter 31, 32, 34, or 35 of this title, as well as the records of other students which the Administrator determines necessary to ascertain institutional compliance with the requirements of such chapters, shall

be available for examination by duly authorized representatives of the Government.

False or Misleading Statements

(d) Whenever the Administrator finds that an educational institution has willfully submitted a false or misleading claim, or that a veteran or person, with the complicity of an educational institution, has submitted such a claim, the Administrator shall make a complete report of the facts of the case to the appropriate State approving agency and, where deemed advisable, to the Attorney General of the United States for appropriate action.

(Added Pub. L. 92-540, title III, § 316(2), Oct. 24, 1972, 86 Stat. 1088, and amended Pub. L. 94-502, title V, §§ 510, 513(a)(19), Oct. 15, 1976, 90 Stat. 2401, 2403.)

REFERENCES IN TEXT

The effective date of section 1780 of this title, referred to in subsec. (a)(2), is Oct. 24, 1972, with the exception of certain provisions thereof which became effective pursuant to section 603 of Pub. L. 92-540.

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (a) were contained in former section 1685, as added by Pub. L. 89-358, § 2, Mar. 3, 1966, 80 Stat. 19, § 1684, renumbered Pub. L. 90-77, title III, § 304(a), Aug. 31, 1967, 81 Stat. 186, and former section 1734, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1199; Pub. L. 89-358, § 4(m), Mar. 3, 1966, 80 Stat. 25; provisions similar to those comprising subsec. (b) were contained in former section 1687, as added by Pub. L. 89-358, § 2, Mar. 3, 1966, 80 Stat. 19, § 1686, renumbered Pub. L. 90-77, title III, § 304(a), Aug. 31, 1967, 81 Stat. 186; and former section 1736, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1199; Pub. L. 88-126, § 2, Sept. 23, 1963, 77 Stat. 162; Pub. L. 89-358, § 4(o), Mar. 3, 1966, 80 Stat. 25; provisions similar to those comprising subsec. (c) were contained in former section 1786, as added by Pub. L. 89-358, § 3(b), Mar. 3, 1966, 80 Stat. 23; and provisions similar to those comprising subsec. (d) were contained in former section 1787, as added by Pub. L. 89-358, § 3(b), Mar. 3, 1966, 80 Stat. 23; prior to the general revision by Pub. L. 92-540.

A prior section 1790 was renumbered section 1794.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502, § 513(a)(19), substituted "the Administrator may disapprove" for "he may disapprove".

Subsec. (b). Pub. L. 94-502, § 513(a)(19), substituted "if the Administrator finds" for "if he finds" in two places.

Subsec. (c). Pub. L. 94-502, § 510, substituted "chapter 31, 32, 34, or 35" for "chapter 31, 34, or 35" and required the records of other students which the Administrator determines necessary to ascertain institutional compliance to be available for inspection.

Subsec. (d). Pub. L. 94-502, § 513(a)(19), substituted "the Administrator shall make" for "he shall make".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective on Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

§ 1791. Change of program

(a) Except as provided in subsections (b) and (c) of this section, each eligible veteran and eligible person may make not more than one change of program of education, but an eligible veteran or eligible person whose program has been interrupted or discontinued due to the veteran's or person's own misconduct, the veteran's or person's own neglect, or the veteran's or person's own lack of application shall not be entitled to any such change.

(b) The Administrator may approve one additional change (or an initial change in the case of a veteran or person not eligible to make a change under subsection (a)) in program if the Administrator finds that—

(1) the program of education which the eligible veteran or eligible person proposes to pursue is suitable to the veteran's or person's aptitudes, interests, and abilities; and

(2) in any instance where the eligible veteran or eligible person has interrupted, or failed to progress in, the veteran's or person's program due to the veteran's or person's own misconduct, the veteran's or person's own neglect, or the veteran's or person's own lack of application, there exists a reasonable likelihood with respect to the program which the eligible veteran or eligible person proposes to pursue that there will not be a recurrence of such an interruption or failure to progress.

(c) The Administrator may also approve additional changes in program if the Administrator finds such changes are necessitated by circumstances beyond the control of the eligible veteran or eligible person.

(d) As used in this section the term "change of program of education" shall not be deemed to include a change from the pursuit of one program to pursuit of another where the first program is prerequisite to, or generally required for, entrance into pursuit of the second.

(Added Pub. L. 92-540, title III, § 316(2), Oct. 24, 1972, 86 Stat. 1089, and amended Pub. L. 94-502, title V, § 513(a)(20), Oct. 15, 1976, 90 Stat. 2403.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 1672, as added by Pub. L. 89-358, § 2, Mar. 3, 1966, 80 Stat. 15; and former section 1722, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1196, prior to repeal by sections 401(6) and 402(2) of Pub. L. 92-540, respectively.

A prior section 1791 was renumbered section 1795.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502 substituted "the veteran's or person's" for "his" in three places.

Subsec. (b). Pub. L. 94-502 substituted "if the Administrator finds" for "if he finds" and "the veteran's or person's" for "his" wherever appearing.

Subsec. (c). Pub. L. 94-502 substituted "if the Administrator finds" for "if he finds".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective on Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

§ 1792. Advisory committee

There shall be an advisory committee formed by the Administrator which shall be composed of persons who are eminent in their respective fields of education, labor, and management, and of representatives of the various types of institutions and establishments furnishing vocational rehabilitation under chapter 31 of this

title or education to eligible persons or veterans enrolled under chapter 34 or 35 of this title. The Committee shall also include veterans representative of World War II, the Korean conflict era, the post-Korean conflict era, and the Vietnam era. The Commissioner of Education and the Administrator, Manpower Administration, Department of Labor, shall be ex officio members of the advisory committee. The Administrator shall advise and consult with the committee from time to time with respect to the administration of this chapter and chapters 31, 34, and 35 of this title, and the committee may make such reports and recommendations as it deems desirable to the Administrator and to the Congress.

(Added Pub. L. 89-358, § 3(b), Mar. 3, 1966, 80 Stat. 23, § 1788, renumbered and amended Pub. L. 92-540, title III, § 316(2), (3), Oct. 24, 1972, 86 Stat. 1086, 1089.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1190 (which was classified to section 1662 of this title) prior to repeal thereof by section 4(a) of Pub. L. 89-358.

AMENDMENTS

1972—Pub. L. 92-540, § 316(3), added provisions that the Committee also include veterans representative of World War II, the Korean conflict era, the post-Korean conflict era and the Vietnam era.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

STUDY OF OPERATION OF POST-KOREAN CONFLICT PROGRAMS OF EDUCATIONAL ASSISTANCE

Section 413 of Pub. L. 92-540 provided for a comparative study of the operation of the post-Korean conflict program of educational assistance with similar prior programs available to veterans of World War II and the Korean conflict, the results of such study and recommendations for improvement to be transmitted to the President and Congress within six months of Oct. 24, 1972.

§ 1793. Compliance surveys

The Administrator shall conduct an annual compliance survey of each institution offering one or more courses approved for the enrollment of eligible veterans or persons where at least 300 veterans or persons are enrolled under provisions of this title or where the course does not lead to a standard college degree. Such compliance survey shall assure that the institution and approved courses are in compliance with all applicable provisions of chapters 31, 34, 35, and 36 of this title. The Administrator shall assign at least one education compliance specialist to work on compliance surveys in any year for each 40 compliance surveys required to be made under this section.

(Added Pub. L. 94-502, title V, § 511(1), Oct. 15, 1976, 90 Stat. 2401.)

PRIOR PROVISIONS

A prior section 1793, added Pub. L. 89-358, § 3(b), Mar. 3, 1966, 80 Stat. 23, § 1789, amended Pub. L. 91-24, § 15, June 11, 1969, 83 Stat. 35, renumbered and amended Pub. L. 92-540, title III, § 316(2), title IV, § 403(12), Oct. 24, 1972, 86 Stat. 1086, 1090, which required that the Administrator not to approve of enrollment in any course in an institution listed by the Attorney General under section 12 of Executive Order 10450, was repealed by section 511(1) of Pub. L. 94-502.

EFFECTIVE DATE

Section effective on Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

§ 1794. Use of other Federal agencies

In carrying out the Administrator's functions under this chapter or chapter 34 or 35 of this title, the Administrator may utilize the facilities and services of any other Federal department or agency. Any such utilization shall be pursuant to proper agreement with the Federal department or agency concerned; and payment to cover the cost thereof shall be made either in advance or by way of reimbursement, as may be provided in such agreement.

(Added Pub. L. 89-358, § 3(b), Mar. 3, 1966, 80 Stat. 23, § 1790, renumbered Pub. L. 92-540, title III, § 316(2), Oct. 24, 1972, 86 Stat. 1086, and amended Pub. L. 94-502, title V, § 513(a)(21), Oct. 15, 1976, 90 Stat. 2403.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1183, 1201 (which was classified to sections 1644 and 1761(c) of this title) prior to repeal and amendment thereof by sections 4(a) and 3(a)(1) of Pub. L. 89-358, respectively.

AMENDMENTS

1976—Pub. L. 94-502 substituted "the Administrator's" for "his".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective on Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1796 of this title.

§ 1795. Limitation on period of assistance under two or more programs

The aggregate period for which any person may receive assistance under two or more of the laws listed below—

(1) parts VII or VIII, Veterans Regulation numbered 1(a), as amended;

(2) title II of the Veterans' Readjustment Assistance Act of 1952;

(3) the War Orphans' Educational Assistance Act of 1956;

(4) chapters 31, 34, 35, and 36 of this title, and the former chapter 33

may not exceed forty-eight months (or the part-time equivalent thereof), but this section shall not be deemed to limit the period for

which assistance may be received under chapter 31 alone.

(Added Pub. L. 90-631, § 1(d)(1), Oct. 23, 1968, 82 Stat. 1331, § 1791, renumbered and amended Pub. L. 92-540, title III, § 316(2), title IV, § 403(13), Oct. 24, 1972, 86 Stat. 1086, 1090.)

REFERENCES IN TEXT

Parts VII and VIII, Veterans Regulation numbered 1(a), referred to in cl. (1), are Parts VII and VIII as added by acts Mar. 24, 1943, ch. 22, § 2, 57 Stat. 43 and June 22, 1944, ch. 268, title II, § 400(b), 58 Stat. 287 to Veterans Regulation numbered 1(a) promulgated by Ex. Ord. No. 6156, June 6, 1933, which had been classified as parts VII and VIII of chapter 12A of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which were repealed by Pub. L. 85-857, § 14(67), Sept. 2, 1958, 72 Stat. 1272.

The Veterans' Readjustment Assistance Act of 1952, referred to in cl. (2), is act July 16, 1952, ch. 875, 66 Stat. 663, as amended. Title II of the Veterans' Readjustment Assistance Act of 1952 was classified generally to subchapter II (§ 911 et seq.) of chapter 14 of former Title 38, Pensions, Bonuses, and Veterans' Relief, which was repealed and the provisions thereof reenacted as chapter 33 (§ 1601 et seq.) of this title by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1105. Chapter 33 of this title was repealed by Pub. L. 89-358, § 4(a), Mar. 3, 1966, 80 Stat. 23. See now chapter 32 (§ 1601 et seq.) of this title.

The War Orphans' Educational Assistance Act of 1956, referred to in cl. (3), is act June 29, 1956, ch. 476, 70 Stat. 411, as amended, which was classified generally to chapter 15 (§ 1031 et seq.) of former Title 38, Pensions, Bonuses, and Veterans' Relief, which was repealed and the provisions thereof reenacted as chapter 35 (§ 1701 et seq.) of this title by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1105.

Former chapter 33, referred to in cl. (4), is former chapter 33 (§ 1601 et seq.) of this title enacted by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1174, which was repealed by Pub. L. 89-358, § 4(a), Mar. 3, 1966, 80 Stat. 23.

AMENDMENTS

1972—Pub. L. 92-540, § 403(13), added reference to chapter 36 of this title.

EFFECTIVE DATE

Section effective on the first day of the second calendar month which begins after Oct. 23, 1968, see section 6(a) of Pub. L. 90-631, set out as an Effective Date of 1968 Amendment note under section 1502 of this title.

§ 1796. Limitation on certain advertising, sales, and enrollment practices

(a) The Administrator shall not approve the enrollment of an eligible veteran or eligible person in any course offered by an institution which utilizes advertising, sales, or enrollment practices of any type which are erroneous, deceptive, or misleading either by actual statement, omission, or intimation.

(b) To ensure compliance with this section, any institution offering courses approved for the enrollment of eligible persons or veterans shall maintain a complete record of all advertising, sales, or enrollment materials (and copies thereof) utilized by or on behalf of the institution during the preceding 12-month period. Such record shall be available for inspection by the State approving agency or the Administrator. Such materials shall include but are not limited to any direct mail pieces, brochures, printed literature used by sales persons, films, video tapes, and audio tapes disseminated through broadcast media, material disseminated through print media, tear sheets, leaflets, handbills, fliers, and any sales or recruitment manuals used to instruct sales personnel, agents, or representatives of such institution.

(c) The Administrator shall, pursuant to section 1794 of this title, enter into an agreement with the Federal Trade Commission to utilize, where appropriate, its services and facilities, consistent with its available resources, in carrying out investigations and making the Administrator's determinations under subsection (a) of this section. Such agreement shall provide that cases arising under subsection (a) of this section or any similar matters with respect to any of the requirements of this chapter or chapters 34 and 35 of this title shall be referred to the Federal Trade Commission which in its discretion will conduct an investigation and make preliminary findings. The findings and results of any such investigations shall be referred to the Administrator who shall take appropriate action in such cases within ninety days after such referral.

(d) Not later than sixty days after the end of each fiscal year, the Administrator shall report to Congress on the nature and disposition of all cases arising under this section.

(Added Pub. L. 93-508, title II, § 212(a), Dec. 3, 1974, 88 Stat. 1585, and amended Pub. L. 94-502, title V, §§ 512, 513(a)(22), Oct. 15, 1976, 90 Stat. 2402, 2403.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-502, § 512, added subsec. (b) and redesignated former subsec. (b) as (c).

Subsec. (c). Pub. L. 94-502, §§ 512(1), 513(a)(22), redesignated former subsec. (b) as (c), and as so redesignated substituted "making the Administrator's determinations" for "making his determinations". Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 94-502, § 512(1), redesignated former subsec. (c) as (d).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment of subsec. (b) by Pub. L. 94-502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

Amendment of subsec. (c) by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE

Section effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

SUBCHAPTER III—EDUCATION LOANS TO ELIGIBLE VETERANS AND ELIGIBLE PERSONS

AMENDMENTS

1974—Pub. L. 93-508, title III, § 301(a), Dec. 3, 1974, 88 Stat. 1589, added subchapter III.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1631 of this title.

§ 1798. Eligibility for loans; amount and conditions of loans; interest rate on loans

(a) Each eligible veteran and eligible person shall be entitled to a loan under this subchapter in an amount determined under, and subject to the conditions specified in, subsection (b)(1) of this section if the veteran or person satisfies the requirements set forth in subsection (c) of this section.

(b)(1) Subject to paragraph (3) of this subsection, the amount of the loan to which an eligible veteran or eligible person shall be entitled under this subchapter for any academic year shall be equal to the amount needed by such veteran or person to pursue a program of education at the institution at which the veteran or person is enrolled, as determined under paragraph (2) of this subsection.

(2)(A) The amount needed by a veteran or person to pursue a program of education at an institution for any academic year shall be determined by subtracting (i) the total amount of financial resources (as defined in subparagraph (B) of this paragraph) available to the veteran or person which may be reasonably expected to be expended by such veteran or person for educational purposes in any year from (ii) the actual cost of attendance (as defined in subparagraph (C) of this paragraph) at the institution in which such veteran or person is enrolled.

(B) The term "total amount of financial resources" of any veteran or person for any year means the total of the following:

(i) The annual adjusted effective income of the veteran or person less Federal income tax paid or payable by such veteran or person with respect to such income.

(ii) The amount of cash assets of the veteran or person.

(iii) The amount of financial assistance received by the veteran or person under the provisions of title IV of the Higher Education Act of 1965, as amended.

(iv) Educational assistance received by the veteran or person under this title other than under this subchapter.

(v) Financial assistance received by the veteran or person under any scholarship or grant program other than those specified in clauses (iii) and (iv).

(C) The term "actual cost of attendance" means, subject to such regulations as the Administrator may provide, the actual per-student charges for tuition, fees, room and board (or expenses related to reasonable commuting), books, and an allowance for such other expenses as the Administrator determines by regulation to be reasonably related to attendance at the institution at which the veteran or person is enrolled.

(3) The aggregate of the amounts any veteran or person may borrow under this subchapter may not exceed $292 multiplied by the number of months such veteran or person is entitled to receive educational assistance under section 1661 or subchapter II of chapter 35, respectively, of this title, but not in excess of $1,500 in any one regular academic year.

(c) An eligible veteran or person shall be entitled to a loan under this subchapter if such veteran or person—

(1) is in attendance at an educational institution on at least a half-time basis and (A) is enrolled in a course leading to a standard college degree, or (B) is enrolled in a course, the completion of which requires six months or longer, leading to an identified and predetermined professional or vocational objective;

(2) has sought and is unable to obtain a loan, in the full amount needed by such veteran or person, as determined under subsection (b) of this section, under a student loan program insured pursuant to the provisions of part B of title IV of the Higher Education Act of 1965, as amended, or any successor authority; and

(3) enters into an agreement with the Administrator meeting the requirements of subsection (d) of this section.

No loan shall be made under this subchapter to an eligible veteran or person pursuing a program of correspondence, flight, apprentice or other on-job, or PREP training.

(d) Any agreement between the Administrator and a veteran or person under this subchapter—

(1) shall include a note or other written obligation which provides for repayment to the Administrator of the principal amount of, and payment of interest on, the loan in installments over a period beginning nine months after the date on which the borrower ceases to be at least a half-time student and ending ten years and nine months after such date;

(2) shall include provision for acceleration of repayment of all or any part of the loan, without penalty, at the option of the borrower;

(3) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at a rate prescribed by the Administrator, at the time the loan is contracted for which rate shall be comparable to the rate of interest charged students at such time on loans insured by the Commissioner of Education, Department of Health, Education, and Welfare, under part B of title IV of the Higher Education Act of 1965, but in no event shall the rate so prescribed by the Administrator exceed the rate charged students on such insured loans, and shall provide that no interest shall accrue prior to the beginning date of repayment; and

(4) shall provide that the loan shall be made without security and without endorsement.

(e)(1) Except as provided in paragraph (2) of this subsection, whenever the Administrator determines that a default has occurred on any loan made under this subchapter, the Administrator shall declare an overpayment, and such overpayment shall be recovered from the veteran or person concerned in the same manner as any other debt due the United States.

(2) If a veteran or person who has received a loan under this section dies or becomes permanently and totally disabled, then the Administrator shall discharge the veteran's or person's liability on such loan by repaying the amount owed on such loan.

(3) The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives, not later than one year after the date of enactment of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 and annually thereafter, a separate report specifying the default experience and default rate at each educational institution along with a comparison of the collective default experience and default rate at all such institutions.

(Added Pub. L. 93-508, title III, § 301(a), Dec. 3, 1974, 88 Stat. 1589, and amended Pub. L. 94-502, title V, §§ 502(a), 513(a)(23), Oct. 15, 1976, 90 Stat. 2399, 2403.)

REFERENCES IN TEXT

The Higher Education Act of 1965, as amended, referred to in subsecs. (b)(2)(B)(iii), (c)(2), and (d)(3), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title IV of the Higher Education Act of 1965 is classified generally to subchapter IV (§ 1070 et seq.) of chapter 28 of Title 20, Education, and Part B of title IV of the Higher Education Act of 1965, referred to in subsecs. (c)(2) and (d)(3), is classified generally to Part B of subchapter IV (§ 1071 et seq.) of chapter 28 of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables volume.

The date of enactment of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, referred to in subsec. (e)(3), is the date of enactment of Pub. L. 93-508, Dec. 3, 1974, 88 Stat. 1578, which was approved Dec. 3, 1974.

AMENDMENTS

1976—Subsec. (b)(1). Pub. L. 94-502, § 513(a)(23), substituted "the veteran or person is enrolled" for "he is enrolled".

Subsec. (b)(3). Pub. L. 94-502, § 502(a)(1), substituted "$292" for "$270" and "$1,500" for "$600".

Subsec. (d)(3). Pub. L. 94-502, § 502(a)(2), substituted provision changing the interest rate on loans to a rate comparable to the rate of interest charged students on loans insured by the Commissioner of Education, Department of Health, Education, and Welfare under part B of title IV of the Higher Education Act of 1965 for provision which authorized a rate which was to be determined by the Secretary, with the concurrence of the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States.

Subsec. (e)(1). Pub. L. 94-502, § 513(a)(23), substituted "the Administrator shall declare" for "he shall declare".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 502(b) of Pub. L. 94-502 provided that: "The amendments made by subsection (a) [amending subsecs. (b)(3) and (d)(3) of this section] shall be effective with respect to loans made under section 1798 of title 38, United States Code, on and after October 1, 1976."

Amendment of subsec. (b) by section 502(a)(1) of Pub. L. 94-502, substituting "$292" for "$270" and "$1,500" for $600", effective Oct. 1, 1976, see section 703(a) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

Amendment of subsec. (b) by section 513(a)(23) of Pub. L. 94-502, substituting "the veteran or person is enrolled" for "he is enrolled", effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

Amendment of subsec. (d) by Pub. L. 94-502 effective Oct. 1, 1976, see section 703(a) of Pub. L. 94-502.

Amendment of subsec. (e) by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 502 of Pub. L. 93-508 provided that: "Title III of this Act [enacting sections 1686, 1737, 1798, and 1799 of this title] shall become effective on January 1, 1975, except that eligible persons shall, upon application, be entitled (and all such persons shall be notified by the Administrator of Veterans' Affairs of such entitlement) to a loan under the new subchapter III of chapter 36 of title 38, United States Code, as added by section 301 of this Act, the terms of which take into account the full amount of the actual cost of attendance (as defined in section 1798(b)(2)(C) of such title) which such persons incurred for the academic year beginning on or about September 1, 1974."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1686, 1737, 1799 of this title.

§ 1799. Revolving fund; insurance

(a) There is hereby established in the Treasury of the United States a revolving fund to be known as the "Veterans' Administration Education Loan Fund" (hereinafter in this section referred to as the "Fund").

(b) The Fund shall be available to the Administrator, without fiscal year limitation, for the making of loans under this subchapter.

(c) There shall be deposited in the Fund (1) by transfer from current and future appropriations for readjustment benefits such amounts as may be necessary to establish and supplement the Fund in order to meet the requirements of the Fund, and (2) all collections of fees and principal and interest (including overpayments declared under section 1798(e) of this title) on loans made under this subchapter.

(d) The Administrator shall determine annually whether there has developed in the Fund a surplus which, in the Administrator's judgment, is more than necessary to meet the needs of the Fund, and such surplus, if any, shall be deemed to have been appropriated for readjustment benefits.

(e) A fee shall be collected from each veteran or person obtaining a loan made under this subchapter for the purpose of insuring against defaults on loans made under this subchapter; and no loan shall be made under this subchapter until the fee payable with respect to such loan has been collected and remitted to the Administrator. The amount of the fee shall be established from time to time by the Administrator, but shall in no event exceed 3 per centum of the total loan amount. The amount of the fee may be included in the loan to the veteran or person and paid from the proceeds thereof.

(Added Pub. L. 93-508, title III, § 301(a), Dec. 3, 1974, 88 Stat. 1591, and amended Pub. L. 94-502, title V, § 513(a)(24), Oct. 15, 1976, 90 Stat. 2404.)

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-502 substituted "the Administrator's" for "his".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective on Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1975, except that eligible persons shall, upon application, be entitled to a loan under this subchapter, the terms of which take into account the full amount of the actual cost of attendance as defined in section 1798(b)(2)(C) of this title, which such persons incurred for the academic year beginning on or about Sept. 1, 1974, see section 502 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1798 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1686, 1737 of this title.

CHAPTER 37—HOME, CONDOMINIUM, AND MOBILE HOME LOANS

SUBCHAPTER I—GENERAL

Sec.
1801. Definitions.
1802. Basic entitlement.
1803. Basic provisions relating to loan guaranty.
1804. Restrictions on loans.
1805. Warranties.
1806. Escrow of deposits and downpayments.
1807. Service after July 25, 1947, and prior to June 27, 1950.

SUBCHAPTER II—LOANS

1810. Purchase or construction of homes.
1811. Direct loans to veterans.
[1812 to 1814. Repealed.]
1815. Insurance of loans.
1816. Procedure on default.
1817. Release from liability under guaranty.
1818. Veterans who serve after January 31, 1955.
1819. Loans to purchase mobile homes and mobile home lots.

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

1820. Powers of Administrator.
1821. Incontestability.
[1822. Repealed.]
1823. Direct loan revolving fund.
1824. Loan guaranty revolving fund.
1825. Waiver of discharge requirements for hospitalized persons.
1826. Withholding of payments, benefits, etc.
1827. Expenditures to correct or compensate for structural defects in mortgaged homes.

AMENDMENTS

1976—Pub. L. 94-324, § 2(b), June 30, 1976, 90 Stat. 720, added item 1807.

1974—Pub. L. 93-569, §§ 7(b), (c), Dec. 31, 1974, 88 Stat. 1866, substituted "Home, Condominium, and Mobile Home Loans" for "Home, Farm, and Business Loans" in the chapter heading, and struck out items 1812 "Purchase of farms and farm equipment", 1813 "Purchase of business property", 1814 "Loans to refinance delinquent indebtedness", and 1822 "Recovery of damages", from the chapter analysis.

1970—Pub. L. 91-506, § 7, Oct. 23, 1970, 84 Stat. 1114, added item 1819.

1968—Pub. L. 90-301, § 5(b), May 7, 1968, 82 Stat. 116, added item 1827.

1966—Pub. L. 89-358, § 5(b), (f)(2), Mar. 3, 1966, 80 Stat. 26, 27, added items 1818 and 1826.

1960—Pub. L. 86-665, §§ 6(b), 7(b), July 14, 1960, 74 Stat. 532, 533, added items 1806 and 1824 and renumbered former item 1824 as 1825.

MAXIMUM INTEREST RATES FOR MORTGAGE INSURANCE PROGRAM

Consultation of Secretary of Housing and Urban Development with Administrator of Veterans' Affairs regarding interest rate considered necessary to meet mortgage market for guaranteed or insured home loans to veterans under this chapter, in determining rate for mortgage insurance program under section 1709(b)(5) of Title 12, see section 1709-1 of Title 12, Banks and Banking.

STATE CONSTITUTIONAL AND LEGAL LIMITS UPON INTEREST CHARGEABLE ON LOAN OR MORTGAGE

Any loan or mortgage secured by a one- to four-family dwelling and insured, guaranteed, or made under this chapter not to be covered by any State constitutional and legal limit upon amount of interest charged, taken, etc., see section 1709-1a of Title 12, Banks and Banking.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 101, 109, 211, 804, 3102 of this title; title 12 sections 371, 1430, 1464, 1709, 1709-1, 1709-1a, 1717, 1720, 1721, 1723e, 1731a, 1735g, 2803.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in sections 28-3307, 35-535 of the District of Columbia Code.

SUBCHAPTER I—GENERAL

§ 1801. Definitions

(a) For the purposes of this chapter—

(1) The term "World War II" (A) means the period beginning on September 16, 1940, and ending on July 25, 1947, and (B) includes, in the case of any veteran who enlisted or reenlisted in a Regular component of the Armed Forces after October 6, 1945, and before October 7, 1946, the period of the first such enlistment or reenlistment.

(2) The term "veteran" includes the surviving spouse of any veteran (including a person who died in the active military, naval, or air service) who died from a service-connected disability, but only if such surviving spouse is not eligible for benefits under this chapter on the basis of the spouse's own active duty. The active duty of the spouse shall be deemed to have been active duty by such surviving spouse for the purposes of this chapter.

(3) The term "veteran" also includes, for purposes of home loans, the spouse of any member of the Armed Forces serving on active duty who is listed, pursuant to section 556 of title 37, United States Code, and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than ninety days: (A) missing in action, (B) captured in line of duty by a hostile force, or (C) forcibly detained or interned in line of duty by a foreign government or power. The active duty of the spouse shall be deemed to have been active duty by such spouse for the purposes of this chapter. The loan eligibility of such spouse under this paragraph shall be limited to one loan guaranteed or made for the acquisition of a home, and entitlement to such loan shall terminate automatically, if not used, upon receipt by such spouse of official notice that the spouse is no longer listed in one of the categories specified in the first sentence of this paragraph.

(b) Benefits shall not be afforded under this chapter to any individual on account of service as a commissioned officer of the Coast and Geodetic Survey, or of the Regular or Reserve Corps of the Public Health Service, unless such service would have qualified such individual for

benefits under title III of the Servicemen's Readjustment Act of 1944.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1203; Pub. L. 91-584, § 5(a), Dec. 24, 1970, 84 Stat. 1576; Pub. L. 94-324, § 7(1), (2), June 30, 1976, 90 Stat. 721.)

REFERENCES IN TEXT

The Servicemen's Readjustment Act of 1944, referred to in subsec. (b), is act June 22, 1944, ch. 268, 58 Stat. 284, as amended. Title III of the Servicemen's Readjustment Act of 1944 was classified generally to subchapter II (§ 694 et seq.) of chapter 11C of former Title 38, Pensions, Bonuses, and Veterans' Relief, which was repealed and the provisions thereof reenacted as chapter 37 (§ 1801 et seq.) of this title by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1105.

AMENDMENTS

1976—Subsec. (a)(2). Pub. L. 94-324, § 7(1), substituted "surviving spouse", "the spouse's own", and "the spouse" for "widow", "her own", and "her husband", respectively, wherever appearing.

Subsec. (a)(3). Pub. L. 94-324, § 7(2), substituted "spouse" and "the spouse" for "wife" and "her husband", respectively, wherever appearing.

1970—Subsec. (a). Pub. L. 91-584 added par. (3).

CHANGE OF NAME

The Coast and Geodetic Survey was consolidated with the National Weather Bureau in 1965 to form the Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318. The Environmental Science Services Administration was abolished in 1970 and its personnel, property, records, etc., were transferred to the National Oceanic and Atmospheric Administration by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090. By order of the Acting Associate Administrator of the National Oceanic and Atmospheric Administration, 35 F.R. 19249, Dec. 19, 1970, the Coast and Geodetic Survey was redesignated the National Ocean Survey. See notes under section 311 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 9 of Pub. L. 94-324 provided that:

"(a) Except as provided in subsection (b), the provisions of this Act [see Short Title of 1976 Amendment note under section 101 of this title] shall become effective on the date of enactment [June 30, 1976].

"(b) Sections 2 [enacting section 1807 of this title] and 3 [amending sections 1811(d)(2)(A) and 1811(d)(3) of this title] shall become effective on October 1, 1976. Section 5 [amending section 1819(c)(3) of this title] shall become effective on July 1, 1976."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1802, 3102 of this title.

§ 1802. Basic entitlement

(a) Each veteran who served on active duty at any time during World War II or the Korean conflict and whose total service was for ninety days or more, or who was discharged or released from a period of active duty, any part of which occurred during World War II or the Korean conflict, for a service-connected disability, shall be eligible for the benefits of this chapter. Entitlement derived from service during the Korean conflict (1) shall cancel any unused entitlement derived from service during World War II, and (2) shall be reduced by the amount by which entitlement from service during World War II, has been used to obtain a direct, guaranteed, or insured loan—

(A) on real property which the veteran owns at the time of application; or

(B) as to which the Administrator has incurred actual liability or loss, unless in the event of loss or the incurrence and payment of such liability by the Administrator the resulting indebtedness of the veteran to the United States has been paid in full.

(b) In computing the aggregate amount of guaranty or insurance entitlement available to a veteran under this chapter, the Administrator may exclude the amount of guaranty or insurance entitlement used for any guaranteed, insured, or direct loan, if—

(1) the property which secured the loan has been disposed of by the veteran or has been destroyed by fire or other natural hazard; and

(2) the loan has been repaid in full, or the Administrator has been released from liability as to the loan, or if the Administrator has suffered a loss on such loan, the loss has been paid in full; or

(3) an immediate veteran-transferee has agreed to assume the outstanding balance on the loan and consented to the use of the veteran-transferee's entitlement, to the extent that the entitlement of the veteran-transferor had been used originally, in place of the veteran-transferor's for the guaranteed, insured, or direct loan, and the veteran-transferee otherwise meets the requirements of this chapter.

The Administrator may, in any case involving circumstances the Administrator deems appropriate, waive one or more of the conditions prescribed in clauses (1) and (2) above.

(c) An honorable discharge shall be deemed to be a certificate of eligibility to apply for a guaranteed loan. Any veteran who does not have a discharge certificate, or who received a discharge other than honorable, may apply to the Administrator for a certificate of eligibility. Upon making a loan guaranteed or insured under this chapter, the lender shall forthwith transmit to the Administrator a report thereon in such detail as the Administrator may, from time to time, prescribe. Where the loan is guaranteed, the Administrator shall provide the lender with a loan guaranty certificate or other evidence of the guaranty. The Administrator shall also endorse on the veteran's discharge, or eligibility certificate, the amount and type of guaranty used, and the amount, if any, remaining. Nothing in this chapter shall preclude the assignment of any guaranteed loan or the security therefor.

(d) Loans will be automatically guaranteed under this chapter only if made (1) by any Federal land bank, national bank, State bank, private bank, building and loan association, insurance company, credit union, or mortgage and loan company, that is subject to examination and supervision by an agency of the United States or of any State, or (2) by any State, or (3) by any lender approved by the Administrator pursuant to standards established by the Administrator. Any loan proposed to be made to a veteran pursuant to this chapter by any lender not of a class specified in the preceding sentence may be guaranteed by the Administrator if the Administrator finds that it is in

accord otherwise with the provisions of this chapter.

(e) The Administrator may at any time upon thirty days' notice require loans to be made by any lender or class of lenders to be submitted to the Administrator for prior approval. No guaranty or insurance liability shall exist with respect to any such loan unless evidence of guaranty or insurance is issued by the Administrator.

(f) Any loan at least 20 per centum of which is guaranteed under this chapter may be made by any national bank or Federal savings and loan association, or by any bank, trust company, building and loan association, or insurance company, organized or authorized to do business in the District of Columbia. Any such loan may be so made without regard to the limitations and restrictions of any other law relating to—

(1) ratio of amount of loan to the value of the property;

(2) maturity of loan;

(3) requirement for mortgage or other security;

(4) dignity of lien; or

(5) percentage of assets which may be invested in real estate loans.

(g) A veteran's entitlement under this chapter shall not be reduced by any entitlement used by the veteran's spouse which was based upon the provisions of paragraph (3) of section 1801(a) of this title.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1203; Pub. L. 86-73, § 1, June 30, 1959, 73 Stat. 156; Pub. L. 87-84, § 1(b), July 6, 1961, 75 Stat. 201; Pub. L. 90-19, § 25(1), May 25, 1967, 81 Stat. 28; Pub. L. 90-77, title IV, § 403(a), Aug. 31, 1967, 81 Stat. 190; Pub. L. 91-506, § 2(a), Oct. 23, 1970, 84 Stat. 1108; Pub. L. 91-584, § 5(b), Dec. 24, 1970, 84 Stat. 1576; Pub. L. 93-569, §§ 2(a), (b), Dec. 31, 1974, 88 Stat. 1863; Pub. L. 94-324, § 7(3)-(5), June 30, 1976, 90 Stat. 721.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-324, § 7(3) substituted "the Administrator deems" for "he deems" and "the veteran-transferee's entitlement" for "his entitlement".

Subsec. (c). Pub. L. 94-324, § 7(4), substituted "The Administrator" for "He".

Subsec. (d). Pub. L. 94-324, § 7(4), substituted "the Administrator" for "him" and "he".

Subsec. (e). Pub. L. 94-324, § 7(5), substituted "the Administrator" for "him" in the first sentence.

Subsec. (g). Pub. L. 94-324, § 7(5), substituted "the veteran's spouse" for "his wife".

1974—Subsec. (b). Pub. L. 93-569, § 2(a), expanded the provisions so as to permit restoration of a veteran's entitlement to a guaranteed, insured, or direct loan provided any prior loan has been paid in full, and the property has been disposed of by the veteran, or any immediate veteran-transferee has agreed to the use of his veteran's entitlement.

Subsec. (d)(3). Pub. L. 93-569, § 2(b), substituted provisions relating to any lender approved by the Administrator pursuant to standards established by him, for provisions relating to approval of mortgagees by the Secretary of Housing and Urban Development and designated by him as certified agent.

1970—Subsec. (b). Pub. L. 91-506 struck out loan eligibility expiration dates for World War II and Korean conflict veterans.

Subsec. (g). Pub. L. 91-584 added subsec. (g).

1967—Subsec. (b). Pub. L. 90-77 extended loan program for certain World War II veterans from July 26, 1967 to July 26, 1970.

Subsec. (d). Pub. L. 90-19 substituted "mortgagee approved by the Secretary of Housing and Urban Development and designated by him" for "Federal Housing Administration approved mortgagee designated by the Federal Housing Commissioner".

1961—Subsec. (b). Pub. L. 87-84 substituted in last sentence "by a World War II veteran at any time before July 26, 1967, and by a Korean conflict veteran at any time before February 1, 1975" for "at any time before February 1, 1965".

1959—Subsec. (d). Pub. L. 86-73 added cl. (3).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as an Effective Date of 1976 Amendment note under section 1801 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 10 of Pub. L. 93-569 provided that: "The provisions of this Act [amending sections 802, 1802, 1803, 1804, 1810, 1811, 1815, 1818 and 1819 of this title, and section 1757 of Title 12, Banks and Banking, repealing sections 1812, 1813, 1814 and 1822 of this title, and enacting provision set out as a note under this section] shall become effective on the date of enactment [Dec. 31, 1974] except that the amendments made by sections 2(a)(3) [amending subsec. (b) of this section] and 2(b) [amending subsec. (d)(3) of this section] and section 3(2) [amending section 1810(a)(6) of this title] and 3(4) [amending section 1810(d) of this title] shall become effective ninety days after such date of enactment [Dec. 31, 1974]."

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1819 of this title.

§ 1803. Basic provisions relating to loan guaranty

(a)(1) Any loan to a World War II or Korean conflict veteran, if made for any of the purposes, and in compliance with the provisions, specified in this chapter is automatically guaranteed by the United States in an amount not more than 60 per centum of the loan if the loan is made for any of the purposes specified in section 1810 of this title.

(2) Any unused entitlement of World War II or Korean conflict veterans which expired under provisions of law in effect prior to the date of enactment of the Veterans' Housing Act of 1970 is hereby restored and shall not expire until used.

(b) The liability of the United States under any guaranty, within the limitations of this chapter, shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.

(c)(1) Loans guaranteed or insured under this chapter shall be payable upon such terms and conditions as may be agreed upon by the parties thereto, subject to the provisions of this chapter and regulations of the Administrator issued pursuant to this chapter, and shall bear interest not in excess of such rate as the Administrator may from time to time find the

loan market demands, except that in establishing the rate of interest that shall be applicable to such loans, the Administrator shall consult with the Secretary of Housing and Urban Development regarding the rate of interest the Secretary considers necessary to meet the mortgage market for home loans insured under section 203(b) of the National Housing Act, and, to the maximum extent practicable, carry out a coordinated policy on interest rates on loans insured under such section 203(b) and on loans guaranteed or insured under this chapter.

(2) The provisions of the Servicemen's Readjustment Act of 1944 which were in effect before April 1, 1958, with respect to the interest chargeable on loans made or guaranteed under such Act shall, notwithstanding the provisions of paragraph (1) of this subsection, continue to be applicable—

(A) to any loan made or guaranteed before April 1, 1958; and

(B) to any loan with respect to which a commitment to guarantee was entered into by the Administrator before April 1, 1958.

(3) This section shall not be construed to prohibit a veteran from paying to a lender any reasonable discount required by such lender, when the proceeds from the loan are to be used:

(A) to refinance indebtedness pursuant to section 1810(a)(5);

(B) to repair, alter, or improve a farm residence or other dwelling pursuant to section 1810(a)(4);

(C) to construct a dwelling or farm residence on land already owned or to be acquired by the veteran except where the land is directly or indirectly acquired from a builder or developer who has contracted to construct such dwelling for the veteran; or

(D) to purchase a dwelling from a class of sellers which the Administrator determines are legally precluded under all circumstances from paying such a discount if the best interest of the veteran would be so served.

(d)(1) The maturity of any loan shall not be more than thirty years and thirty-two days.

(2) Any loan for a term of more than five years shall be amortized in accordance with established procedure.

(3) Any real estate loan (other than for repairs, alterations, or improvements) shall be secured by a first lien on the realty. In determining whether a loan for the purchase or construction of a home is so secured, the Administrator may disregard a superior lien created by a duly recorded covenant running with the realty in favor of a private entity to secure an obligation to such entity for the homeowner's share of the costs of the management, operation, or maintenance of property, services or programs within and for the benefit of the development or community in which the veteran's realty is located, if the Administrator determines that the interests of the veteran borrower and of the Government will not be prejudiced by the operation of such covenant. In respect to any such superior lien to be created after the effective date of this amendment, the Administrator's determination must have been made prior to the recordation of the covenant.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1205; Pub. L. 86-73, § 2, June 30, 1959, 73 Stat. 156; Pub. L. 86-665, § 1, July 14, 1960, 74 Stat. 531; Pub. L. 87-84, § 1(a), July 6, 1961, 75 Stat. 201; Pub. L. 89-358, § 5(d), Mar. 3, 1966, 80 Stat. 26; Pub. L. 90-77, title IV, § 403(b), Aug. 31, 1967, 81 Stat. 190; Pub. L. 91-22, § 4, June 6, 1969, 83 Stat. 32; Pub. L. 91-506, § 2(b), (c), Oct. 23, 1970, 84 Stat. 1108; Pub. L. 93-75, July 26, 1973, 87 Stat. 176; Pub. L. 93-569, §§ 2(c), 8(1)-(4), Dec. 31, 1974, 88 Stat. 1863, 1866; Pub. L. 94-324, § 7(6), June 30, 1976, 90 Stat. 721.)

REFERENCES IN TEXT

The date of enactment of the Veterans' Housing Act of 1970, referred to in subsec. (a)(2), is the date of enactment of Pub. L. 91-506, which was approved on Oct. 23, 1970.

Section 203(b) of the National Housing Act, referred to in subsec. (c)(1), is section 203(b) of act June 27, 1934, ch. 847, title II, 48 Stat. 1248, which enacted section 1709(b) of Title 12, Banks and Banking.

The Servicemen's Readjustment Act of 1944, referred to in subsec. (c)(2), is act June 22, 1944, ch. 268, 58 Stat. 284, as amended, which was classified generally to chapter 11C (§§ 693 to 697g) of former Title 38, Pensions, Bonuses, and Veterans' Relief, which was repealed upon the enactment of Title 38, Veterans' Benefits, by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1105. For distribution of sections 693 to 697g of former Title 38 in this title, see Table preceding section 101 of this title.

The effective date of this amendment, referred to in subsec. (d)(3), probably means the date of enactment of Pub. L. 91-22, which was approved June 6, 1969.

AMENDMENTS

1976—Subsec. (d)(3). Pub. L. 94-324 substituted "the Administrator determines" for "he determines".

1974—Subsec. (a)(1). Pub. L. 93-569, § 8(1), struck out "and not more than 50 per centum of the loan if the loan is for any of the purposes specified in section 1812, 1813, or 1814 of this title" following "section 1810 of this title".

Subsec. (b). Pub. L. 93-569, § 8(2), struck out provision that, except as provided in sections 1810, 1811, and 1819, the aggregate amount guaranteed should not be more than $2,000 in the case of non-real-estate loans, nor $4,000 in the case of real-estate loans or a prorated portion thereof in a combination loan.

Subsec. (c)(3). Pub. L. 93-569, § 2(c), added subsec. (c)(3).

Subsec. (d)(1). Pub. L. 93-569, § 8(3), substituted provision that the maturity of any loan shall not be more than thirty years and thirty-two days for provisions that non-real-estate loans shall not be more than ten years except as provided in section 1819, that the maturity of a real estate loan be not more than thirty years, and a loan on farm realty be not more than forty years.

Subsec. (d)(3). Pub. L. 93-569, § 8(4), struck out provision that any non-real-estate loan should be secured by personalty to the extent legal and practicable.

1973—Subsec. (c)(1). Pub. L. 93-75 substituted provisions requiring the Administrator to consult with the Secretary of Housing and Urban Development regarding the establishment of the rate of interest the Secretary considers necessary to meet the mortgage market for home loans insured under section 203(b) of the National Housing Act, and to carry out a coordinated policy on interest rates on loans insured under such section 203(b) and on loans guaranteed or insured under this chapter, for former provision limiting rate of interest to rate in effect under section 203(b)(5) of the National Housing Act.

1970—Subsec. (a). Pub. L. 91-506, § 2(b), struck out loan eligibility expiration dates for World War II and Korean conflict veterans and added provision restoring expired entitlements of World War II and Korean

conflict veterans and providing that such entitlements shall not expire until used.

Subsec. (b). Pub. L. 91-506, § 2(c)(1), substituted "1810, 1811, and 1819" for "1810 and 1811".

Subsec. (d)(1). Pub. L. 91-506, § 2(c)(2), limited maturity of non-real-estate loan to not more than ten years except as provided in section 1819 of this title.

1969—Subsec. (d)(3). Pub. L. 91-22 authorized the Administrator, in determining whether a Government loan is secured by a first lien on realty, to disregard a superior lien created by a duly recorded covenant which secures a veteran homeowner's share of the costs of managing, operating or maintaining property, services or programs common to the community in which the veteran's home is located, provided the interests of the Government and the veteran borrower are not prejudiced.

1967—Subsec. (a)(3)(A). Pub. L. 90-77 extended in clauses (i) and (ii) loan program for certain World War II veterans from July 25, 1967 to July 25, 1970.

1966—Subsec. (c)(1). Pub. L. 89-358 eliminated provision for approval of rate of interest by the Secretary of the Treasury and substituted provision for a rate not in excess of that in effect under section 203(b)(5) of the National Housing Act, section 1709(b)(5) of Title 12, for former limitation of 5¼ per centum per annum.

1961—Subsec. (a). Pub. L. 87-84 substituted "to a World War II or Korean conflict veteran, if made within the applicable period prescribed in paragraph (3) of this subsection" for "made to a World War II veteran, if made before July 26, 1962 (or, in the case of a veteran described in section 1801(a)(1)(B) of this title, before the expiration of fifteen years after World War II is deemed to have ended with respect to him), or to a Korean conflict veteran, if made before February 1, 1965," in par. (1), and "is received by the Administrator before the date of the expiration of the veteran's entitlement, the loan" for "to a World War II veteran, whose entitlement would otherwise expire on July 25, 1962, has been received by the Administrator before July 26, 1962, such loan" in par. (2), and added par. (3).

1960—Subsec. (a). Pub. L. 86-665 substituted "1962" for "1960" in three instances, "fifteen" for "thirteen" years, and "after such date" for "before July 26, 1961".

1959—Subsec. (c)(1). Pub. L. 86-73 eliminated requirement that the interest rate on a Veterans' Administration guarantee for direct loan be at least one-half of one percent below the prevailing rate on FHA-insured sales housing loans and increased the interest rate ceiling from 4¾ to 5¼ percent.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as an Effective Date of 1976 Amendment note under section 1801 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-569 effective Dec. 31, 1974, see section 10 of Pub. L. 93-569, set out as an Effective Date of 1974 Amendment note under section 1802 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

EXPIRATION OF LOAN BENEFIT ENTITLEMENT OF CERTAIN WORLD WAR II VETERANS

Section 403(c) of Pub. L. 90-77 provided that: "The World War II loan benefit entitlement of any veteran whose period of entitlement as computed under the provisions of section 1803(a)(3)(A) of title 38, United States Code, as amended by this section, extended beyond July 25, 1967, shall not be deemed to expire earlier than ninety days after the effective date of this section [see section 405(b) of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title]."

§ 1804. Restrictions on loans

(a) No loan for the purchase or construction of residential property shall be financed through the assistance of this chapter unless the property meets or exceeds minimum requirements for planning, construction, and general acceptability prescribed by the Administrator; however, this subsection shall not apply to a loan for the purchase of residential property on which construction is fully completed more than one year before such loan is made.

(b) Subject to notice and opportunity for a hearing, the Administrator may refuse to appraise or to be constructed by any person indentified with housing previously sold to veterans under this chapter as to which substantial deficiencies have been discovered, or as to which there has been a failure or indicated inability to discharge contractual liabilities to veterans, or as to which it is ascertained that the type of contract of sale or the methods or practices pursued in relation to the marketing of such properties were unfair or unduly prejudicial to veteran purchasers. The Administrator may also refuse to appraise any dwelling or housing project owned, sponsored, or to be constructed by any person refused the benefits of participation under the National Housing Act pursuant to a determination of the Secretary of Housing and Urban Development.

(c) No loan for the purchase or construction of residential property shall be financed through the assistance of this chapter unless the veteran applicant, at the time that the veteran applies for the loan, and also at the time that the loan is closed, certifies in such form as the Administrator may require, that the veteran intends to occupy the property as the veteran's home. No loan for the repair, alteration, or improvement of residential property shall be financed through the assistance of the provisions of this chapter unless the veteran applicant, at the time that the veteran applies to the lender for the loan, and also at the time that the loan is closed, certifies, in such form as may be required by the Administrator, that the veteran occupies the property as the veteran's home. Notwithstanding the foregoing provisions of this subsection, in the case of a loan automatically guaranteed under this chapter, the veteran shall be required to make the certification only at the time the loan is closed. For the purposes of this chapter the requirement that the veteran recipient of a guaranteed or direct home loan must occupy or intend to occupy the property as the veteran's home means that the veteran as of the date of the veteran's certification actually lives in the property personally as the veteran's residence or actually intends upon completion of the loan and acquisition of the dwelling unit to move into the property personally within a reasonable time and to utilize such property as the veteran's residence. Notwithstanding the foregoing requirements of this subsection, the provisions for certification by the veteran at the time the veteran applies

for the loan and at the time the loan is closed shall be considered to be satisfied if the Administrator finds that (1) in the case of a loan for repair, alteration, or improvement the veteran in fact did occupy the property at such times, or (2) in the case of a loan for construction or purchase the veteran intended to occupy the property as the veteran's home at such times and the veteran did in fact so occupy it when, or within a reasonable time after, the loan was closed.

(d) Subject to notice and opportunity for a hearing, whenever the Administrator finds with respect to guaranteed or insured loans that any lender or holder has failed to maintain adequate loan accounting records, or to demonstrate proper ability to service loans adequately or to exercise proper credit judgment or has willfully or negligently engaged in practices otherwise detrimental to the interest of veterans or of the Government, the Administrator may refuse either temporarily or permanently to guarantee or insure any loans made by such lender or holder and may bar such lender or holder from acquiring loans guaranteed or insured under this chapter; however, the Administrator shall not refuse to pay a guaranty or insurance claim on loans theretofore entered into in good faith between a veteran and such lender. The Administrator may also refuse either temporarily or permanently to guarantee or insure any loans made by a lender or holder refused the benefits of participation under the National Housing Act pursuant to a determination of the Secretary of Housing and Urban Development.

(e) No loan for the purchase or construction of new residential property (other than property served by a water and sewerage system approved by the Secretary of Housing and Urban Development pursuant to title X of the National Housing Act) shall be financed through the assistance of this chapter, except pursuant to a commitment made prior to the date of the enactment of the Housing and Urban Development Act of 1965, if such property is not served by a public or adequate community water and sewerage system and is located in an area where the appropriate local officials certify that the establishment of such systems is economically feasible. For purposes of this subsection, the economic feasibility of establishing public or adequate community water and sewerage systems shall be determined without regard to whether such establishment is authorized by law or is subject to approval by one or more local governments or public bodies.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1206; Pub. L. 86-73, § 3, June 30, 1959, 73 Stat. 156; Pub. L. 86-665, § 5, July 14, 1960, 74 Stat. 532; Pub. L. 89-117, title II, § 217(b), Aug. 10, 1965, 79 Stat. 473; Pub. L. 90-19, § 25(2), May 25, 1967, 81 Stat. 28; Pub. L. 91-506, § 2(d), Oct. 23, 1970, 84 Stat. 1108; Pub. L. 93-569, § 2(d), (e), Dec. 31, 1974, 88 Stat. 1863, 1964; Pub. L. 94-324, § 7(7), (8), June 30, 1976, 90 Stat. 721.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (b) and (d), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, which is classified principally to chapter 13 (§ 1701 et seq.) of Title 12, Banks and Banking. Title X of the National Housing Act, referred to in subsec. (e), is title X of act June 27, 1934, ch. 847, as added by act Aug. 10, 1965, Pub. L. 89-117, title II, § 201(a), 79 Stat. 461, which is classified generally to subchapter IX-A (§ 1749aa et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables volume.

The date of the enactment of the Housing and Urban Development Act of 1965, referred to in subsec. (e), means the date of the enactment of Pub. L. 89-117, which is Aug. 10, 1965.

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-324, § 7(7), substituted "the veteran" for "he" in six places and "the veteran's" for "his" wherever appearing.

Subsec. (d). Pub. L. 94-324, § 7(8), substituted "the Administrator may" for "he may".

1974—Subsec. (b). Pub. L. 93-569, § 2(e), struck out "under section 512 of that Act" following "determination of the Secretary of Housing and Urban Development".

Subsec. (c). Pub. L. 93-569, § 2(d), added provision that, the foregoing provisions notwithstanding, in the case of an automatically guaranteed loan, the veteran is required to make certification only at the time of loan closing.

Subsec. (d). Pub. L. 93-569, § 2(e), struck out "under section 512 of that Act" following "determination of the Secretary of Housing and Urban Development".

1970—Subsec. (b). Pub. L. 91-506 substituted "Subject to notice and opportunity for a hearing, the" for "The".

Subsec. (d). Pub. L. 91-506 substituted "Subject to notice and opportunity for a hearing, whenever" for "Whenever".

1967—Subsecs. (b), (d), (e). Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner".

1965—Subsec. (e). Pub. L. 89-117 added subsec. (e).

1960—Subsec. (c). Pub. L. 86-665 added the sentence respecting satisfaction of provisions for certification by the veteran at the time he applies for the loan and at the time the loan is closed.

1959—Subsec. (b). Pub. L. 86-73, § 3(a) authorized the Administrator to refuse to appraise any property if the builder or sponsor of the property had been barred by the Federal Housing Commissioner from participation in the FHA insurance program.

Subsec. (d). Pub. L. 86-73, § 3(b) authorized the Administrator to refuse to guarantee or insure loans if the lender or holder of the loans has been barred by the Federal Housing Commissioner from participation in the FHA insurance program.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as an Effective Date of 1976 Amendment note under section 1801 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-569 effective Dec. 31, 1974, see section 10 of Pub. L. 93-569, set out as an Effective Date of 1974 Amendment note under section 1802 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1806, 1811, 1819 of this title.

§ 1805. Warranties

(a) The Administrator shall require that in connection with any property upon which there is located a dwelling designed principally for not more than a four-family residence and which is approved for guaranty or insurance before the beginning of construction, the seller

or builder, and such other person as may be required by the Administrator to become warrantor, shall deliver to the purchaser or owner of such property a warranty that the dwelling is constructed in substantial conformity with the plans and specifications (including any amendments thereof, or changes and variations therein, which have been approved in writing by the Administrator) on which the Administrator based the Administrator's valuation of the dwelling. The Administrator shall deliver to the builder, seller, or other warrantor the Administrator's written approval (which shall be conclusive evidence of such approval) of any amendment of, or change or variation in, such plans and specifications which the Administrator deems to be a substantial amendment thereof, or change or variation therein, and shall file a copy of such written approval with such plans and specifications. Such warranty shall apply only with respect to such instances of substantial nonconformity to such approved plans and specifications (including any amendments thereof, or changes or variations therein, which have been approved in writing, as provided in this section, by the Administrator) as to which the purchaser or home owner has given written notice to the warrantor within one year from the date of conveyance of title to, or initial occupancy of, the dwelling, whichever first occurs. Such warranty shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under any other law or instrument. The provisions of this section shall apply to any such property covered by a mortgage insured or guaranteed by the Administrator on and after October 1, 1954, unless such mortgage is insured or guaranteed pursuant to a commitment therefor made before October 1, 1954.

(b) The Administrator shall permit copies of the plans and specifications (including written approvals of any amendments thereof, or changes or variations therein, as provided in this section) for dwellings in connection with which warranties are required by subsection (a) of this section to be made available in their appropriate local offices for inspection or for copying by any purchaser, home owner, or warrantor during such hours or periods of time as the Administrator may determine to be reasonable.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1206; Pub. L. 94-324, § 7(9), June 30, 1976, 90 Stat. 721.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-324 substituted "the Administrator's" for "his" wherever appearing.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as an Effective Date of 1976 Amendment note under section 1801 of this title.

§ 1806. Escrow of deposits and downpayments

(a) Any deposit or downpayment made by an eligible veteran in connection with the purchase of proposed or newly constructed and previously unoccupied residential property in a project on which the Administrator has issued a Certificate of Reasonable Value, which purchase is to be financed with a loan guaranteed, insured, or made under the provisions of this chapter, shall be deposited forthwith by the seller, or the agent of the seller, receiving such deposit or payment, in a trust account to safeguard such deposit or payment from the claims of creditors of the seller. The failure of the seller or the seller's agent to create such trust account and to maintain it until the deposit or payment has been disbursed for the benefit of the veteran purchaser at settlement or, if the transaction does not materialize, is otherwise disposed of in accordance with the terms of the contract, may constitute an unfair marketing practice within the meaning of section 1804(b) of this chapter.

(b) If an eligible veteran contracts for the construction of a property in a project on which the Administrator has issued a Certificate of Reasonable Value and such construction is to be financed with the assistance of a construction loan to be guaranteed, insured, or made under the provisions of this chapter, it may be considered an unfair marketing practice under section 1804(b) of this chapter if any deposit or downpayment of the veteran is not maintained in a special trust account by the recipient until it is either (1) applied on behalf of the veteran to the cost of the land or to the cost of construction or (2), if the transaction does not materialize, is otherwise disposed of in accordance with the terms of the contract.

(Added Pub. L. 86-665, § 6(a), July 14, 1960, 74 Stat. 532, and amended Pub. L. 94-324, § 7(10), June 30, 1976, 90 Stat. 721.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-324 substituted "the seller's" for "his".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as an Effective Date of 1976 Amendment note under section 1801 of this title.

§ 1807. Service after July 25, 1947, and prior to June 27, 1950

Each veteran whose only active duty service occurred after July 25, 1947, and prior to June 27, 1950, and who—

(1) served for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable; or

(2) served for a period of 180 days or less and was discharged or released for a service-connected disability;

shall be eligible for benefits of this chapter.

(Added Pub. L. 94-324, § 2, June 30, 1976, 90 Stat. 720.)

EFFECTIVE DATE

Section effective Oct. 1, 1976, see section 9(b) of Pub. L. 94-324, set out as an Effective Date of 1976 Amendment note under section 1801 of this title.

SUBCHAPTER II—LOANS

§ 1810. Purchase or construction of homes

(a) Any loan to a veteran, if made pursuant to the provisions of this chapter, is automatically guaranteed if such loan is for one or more of the following purposes:

(1) To purchase or construct a dwelling to be owned and occupied by the veteran as a home.

(2) To purchase a farm on which there is a farm residence to be owned and occupied by the veteran as the veteran's home.

(3) To construct on land owned by the veteran a farm residence to be occupied by the veteran as the veteran's home.

(4) To repair, alter, or improve a farm residence or other dwelling owned by the veteran and occupied by the veteran as the veteran's home.

(5) To refinance existing mortgage loans or other liens which are secured of record on a dwelling or farm residence owned and occupied by the veteran as the veteran's home.

(6) To purchase a one-family residential unit in a new condominium housing development or project, or in a structure built and sold as a condominium, provided such development, project or structure is approved by the Administrator under such criteria as the Administrator shall prescribe.

If there is an indebtedness which is secured by a lien against land owned by the veteran, the proceeds of a loan guaranteed under this section or made under section 1811 of this title for construction of a dwelling or farm residence on such land may be used also to liquidate such lien, but only if the reasonable value of the land is equal to or greater than the amount of the lien.

(b) No loan may be guaranteed under this section or made under section 1811 of this title unless—

(1) the proceeds of such loan will be used to pay for the property purchased, constructed, or improved;

(2) the contemplated terms of payment required in any mortgage to be given in part payment of the purchase price or the construction cost bear a proper relation to the veteran's present and anticipated income and expenses;

(3) the veteran is a satisfactory credit risk;

(4) the nature and condition of the property is such as to be suitable for dwelling purposes;

(5) the loan to be paid by the veteran for such property or for the cost of construction, repairs, or alterations, does not exceed the reasonable value thereof as determined by the Administrator; and,

(6) if the loan is for repair, alteration, or improvement of property, such repair, alteration, or improvement substantially protects or improves the basic livability or utility of such property.

After the reasonable value of any property, construction, repairs, or alterations is determined under paragraph (5), the Administrator shall, as soon as possible thereafter, notify the veteran concerned of such determination.

(c) The amount of guaranty entitlement available to a veteran under this section shall not be more than $17,500 less such entitlement as may have been used previously under this section and other sections of this chapter.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1207; Pub. L. 90-301, §§ 1(a), 2(a), May 7, 1968, 82 Stat. 113; Pub. L. 91-506, § 3, Oct. 23, 1970, 84 Stat. 1108; Pub. L. 93-569, § 3, Dec. 31, 1974, 88 Stat. 1864; Pub. L. 94-324, § 7(11), June 30, 1976, 90 Stat. 721.)

Amendments

1976—Subsec. (a). Pub. L. 94-324 substituted "the veteran", "the veteran's" and "the Administrator" for "him", "his" and "he", respectively, wherever appearing.

1974—Subsec. (a)(5). Pub. L. 93-569, § 3(1), struck out "Nothing in this chapter shall preclude a veteran from paying to a lender any discount required by such lender in connection with such refinancing."

Subsec. (a)(6). Pub. L. 93-569, § 3(2), added subsec. (a)(6).

Subsec. (c). Pub. L. 93-569, § 3(3), substituted "$17,500" for "$12,500".

Subsec. (d). Pub. L. 93-569, § 3(4), struck out subsec. (d), relating to the guaranty of loans for purchase of a one-family residential unit in a condominium housing project or development as to which the Secretary of Housing and Urban Development has issued, under section 234 of the National Housing Act, evidence of insurance.

1970—Subsec. (a). Pub. L. 91-506, § 3(1), added par. (5) permitting a veteran to use his loan guaranty eligibility to refinance existing mortgage loans or other liens on dwellings on farm residences he occupies and provided that veterans using loan guarantees for such refinancing may pay points demanded by a lender.

Subsec. (d). Pub. L. 91-506, § 3(2), added subsec. (d).

1968—Subsec. (b). Pub. L. 90-301, § 2(a), substituted "loan to be paid" for "price paid or to be paid" in par. (5) of first sentence and added second sentence provisions for notification of veteran concerned of determination of reasonable value of any property, construction, repairs, or alterations under par. (5) of first sentence.

Subsec. (c). Pub. L. 90-301, § 1(a), increased the limitation on amount of guaranty entitlement from $7,500 to $12,500.

Effective Date of 1976 Amendment

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as an Effective Date of 1976 Amendment note under section 1801 of this title.

Effective Date of 1974 Amendment

Amendment by Pub. L. 93-569 effective Dec. 31, 1974, except that amendment of subsecs. (a)(6) and (d) of this section effective ninety days after Dec. 31, 1974, see section 10 of Pub. L. 93-569, set out as an Effective Date of 1974 Amendment note under section 1802 of this title.

Section Referred to in Other Sections

This section is referred to in sections 1803, 1811, 1817 of this title.

§ 1811. Direct loans to veterans

(a) The Congress finds that housing credit under section 1810 or 1819 of this title is not and has not been generally available to veterans living in rural areas, or in small cities and towns not near large metropolitan areas. It is therefore the purpose of this section to provide housing credit for veterans living in such rural areas and such small cities and towns.

(b) Whenever the Administrator finds that private capital is not generally available in any rural area or small city or town for the financing of loans guaranteed under section 1810 or 1819 of this title, the Administrator shall designate such rural area or small city or town as a "housing credit shortage area". The Administrator shall, with respect to any such area, make, or enter into commitments to make, to any veteran eligible under this title, a loan for any or all of the purposes described in section 1810(a) or 1819 of this title.

(c) No loan may be made under this section to a veteran unless the veteran shows to the satisfaction of the Administrator that—

(1) the veteran is unable to obtain from a private lender in such housing credit shortage area, at an interest rate not in excess of the rate authorized for guaranteed home loans or mobile home loans, as appropriate, a loan for such purpose for which the veteran is qualified under section 1810 or 1819 of this title, as appropriate; and

(2) the veteran is unable to obtain a loan for such purpose from the Secretary of Agriculture under sections 1000–1029 of title 7 or under sections 1471–1483 of title 42.

(d)(1) Loans made under this section shall bear interest at a rate determined by the Administrator, not to exceed the rate authorized for guaranteed home loans, or mobile home loans, as appropriate, and shall be subject to such requirements or limitations prescribed for loans guaranteed under this title as may be applicable.

(2)(A) Except for any loan made under this chapter for the purposes described in section 1819 of this title, the original principal amount of any loan made under this section shall not exceed an amount which bears the same ratio to $33,000 as the amount of guaranty to which the veteran is entitled under section 1810 of this title at the time the loan is made bears to $17,500; and the guaranty entitlement of any veteran who heretofore or hereafter has been granted a loan under this section shall be charged with an amount which bears the same ratio to $17,500 as the amount of the loan bears to $33,000.

(B) The original principal amount of any loan made under this section for the purposes described in section 1819 of this title shall not exceed the amount specified by the Administrator pursuant to subsection (d) of such section.

(3) No veteran may obtain loans under this section aggregating more than $33,000.

(e) Loans made under this section shall be repaid in monthly installments, except that in the case of any such loan made for any of the purposes described in paragraphs (2), (3), or (4) of section 1810(a) of this title, the Administrator may provide that such loan shall be repaid in quarterly, semiannual, or annual installments.

(f) In connection with any loan under this section, the Administrator may make advances in cash to pay taxes and assessments on the real estate, to provide for repairs, alterations, and improvements, and to meet the incidental expenses of the transaction. The Administrator shall determine the expenses incident to origination of loans made under this section, which expenses, or a reasonable flat allowance in lieu thereof, shall be paid by the veteran in addition to the loan closing costs.

(g) The Administrator may sell, and shall offer for sale, to any person or entity approved for such purpose by the Administrator, any loan made under this section at a price which the Administrator determines to be reasonable under the conditions prevailing in the mortgage market when the agreement to sell the loan is made; and shall guarantee any loan thus sold subject to the same conditions, terms, and limitations which would be applicable were the loan guaranteed under section 1810 or 1819 of this title, as appropriate.

(h) The Administrator may exempt dwellings constructed through assistance provided by this section from the minimum land planning and subdivision requirements prescribed pursuant to subsection (a) of section 1804 of this title, and with respect to such dwellings may prescribe special minimum land planning and subdivision requirements which shall be in keeping with the general housing facilities in the locality but shall require that such dwellings meet minimum requirements of structural soundness and general acceptability.

(i) The Administrator is authorized, without regard to the provisions of subsections (a), (b), and (c) of this section, to make or enter into a commitment to make a loan to any veteran to assist the veteran in acquiring a specially adapted housing unit authorized under chapter 21 of this title, if the veteran is determined to be eligible for the benefits of such chapter 21, and is eligible for loan guaranty benefits under this chapter.

(j)(1) If any builder or sponsor proposes to construct one or more dwellings in a housing credit shortage area, or in any area for a veteran who is determined to be eligible for assistance in acquiring a specially adapted housing unit under chapter 21 of this title, the Administrator may enter into commitment with such builder or sponsor, under which funds available for loans under this section will be reserved for a period not in excess of three months, or such longer period as the Administrator may authorize to meet the needs in any particular case, for the purpose of making loans to veterans to purchase such dwellings. Such commitment may not be assigned or transferred except with the written approval of the Administrator. The Administrator shall not enter into any such commitment unless such builder or sponsor pays a nonrefundable commitment fee to the Administrator in an amount determined by the Administrator, not to exceed 2 per centum of the funds reserved for such builder or sponsor.

(2) Whenever the Administrator finds that a dwelling with respect to which funds are being reserved under this subsection has been sold, or contracted to be sold, to a veteran eligible for a direct loan under this section, the Administrator shall enter into a commitment to make the veteran a loan for the purchase of such dwelling. With respect to any loan made to an eligible veteran under this subsection, the Administrator may make advances during the construction of the dwelling, up to a maximum in advances of (A) the cost of the land plus (B) 80

per centum of the value of the construction in place.

(k) Without regard to any other provision of this chapter, the Administrator may take or cause to be taken such action as in the Administrator's judgment may be necessary or appropriate for or in connection with the custody, management, protection, and realization or sale of investments under this section, may determine the Administrator's necessary expenses and expenditures, and the manner in which the same shall be incurred, allowed and paid, may make such rules, regulations, and orders as the Administrator may deem necessary or appropriate for carrying out the Administrator's functions under this section and section 1823 of this title and, except as otherwise expressly provided in this chapter, may employ, utilize, compensate, and, to the extent not inconsistent with the Administrator's basic responsibilities under this chapter, delegate any of the Administrator's functions under this section and section 1823 of this title to such persons and such corporate or other agencies, including agencies of the United States, as the Administrator may designate.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1208; Pub. L. 86-665, § 2, July 14, 1960, 74 Stat. 531; Pub. L. 87-84, § 2, July 6, 1961, 75 Stat. 201; Pub. L. 88-402, Aug. 4, 1964, 78 Stat. 380; Pub. L. 89-358, § 5(e), Mar. 3, 1966, 80 Stat. 26; Pub. L. 90-77, title IV, § 404, Aug. 31, 1967, 81 Stat. 190; Pub. L. 90-301, § 1(b), May 7, 1968, 82 Stat. 113; Pub. L. 91-22, § 3, June 6, 1969, 83 Stat. 32; Pub. L. 91-506, § 4, Oct. 23, 1970, 84 Stat. 1109; Pub. L. 92-66, Aug. 5, 1971, 85 Stat. 173; Pub. L. 93-569, § 4, Dec. 31, 1974, 88 Stat. 1864; Pub. L. 94-324, §§ 3, 7(12)-(15), June 30, 1976, 90 Stat. 720, 721.)

REFERENCES IN TEXT

Sections 1006, 1007a, and 1013 of title 7, included within the reference to sections 1000 to 1029 of title 7 in subsec. (c)(2), were omitted from the Code. Sections 1001 to 1005d, 1006c to 1006e, 1007, 1008, 1009, 1014 to 1025, and 1027 to 1029, included in that reference, were repealed by Pub. L. 87-128, title III, § 341(a), Aug. 8, 1961, 75 Stat. 318; section 1012, included in that reference, was repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, and section 1026, included in that reference, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862.

Sections 1471-1483 of title 42, referred to in subsec. (c)(2), comprised title V (§§ 501-513) of act July 15, 1949, ch. 338, the Housing Act of 1949, as of Sept. 2, 1958, the date of enactment of Title 38, Veterans' Benefits. Since that time, additional sections have been added to title V of the Housing Act of 1949, which is classified to subchapter III (§ 1471 et seq.) of chapter 8A of Title 42, The Public Health and Welfare. For complete classification of such title V to the Code, see Tables volume.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-324, § 7(12), substituted "the Administrator shall" for "he shall" and "The Administrator" for "He".

Subsec. (c). Pub. L. 94-324, § 7(13), substituted "the veteran" for "he" wherever appearing.

Subsec. (d)(2)(A). Pub. L. 94-324, § 3(1), substituted "$33,000" for "$21,000" wherever appearing and deleted provision authorizing the Administrator to increase the limitations specified upon finding that cost levels so required.

Subsec. (d)(3). Pub. L. 94-324, § 3(2), increased the aggregate amount of loans that a veteran is eligible to receive under this section from $21,000 to $33,000 and deleted provision authorizing the Administrator to increase specific limitations upon such loans.

Subsec. (g). Pub. L. 94-324, § 7(14), substituted "the Administrator" for "him" and "he", wherever appearing.

Subsec. (k). Pub. L. 94-324, § 7(15), substituted "the Administrator's" for "his" wherever appearing and "as the Administrator" for "as he" wherever appearing.

1974—Subsec. (d)(2)(A). Pub. L. 93-569 substituted "$17,500" for "$12,500" wherever appearing therein.

1971—Subsec. (g). Pub. L. 92-66 substituted provisions authorizing the Administrator to sell loans at a price which he determines to be reasonable under prevailing conditions in the mortgage market when the agreement to sell the loan is made, for provisions authorizing the Administrator to sell loans at a price which he determines to be reasonable but not less than 98 per centum of the unpaid principal balance, plus the full amount of the accrued interest, and if the loans are offered to an investor in a package or block of two or more loans at not less than 98 per centum of the aggregate unpaid principal balance of the loans included in such package or block, plus the full amount of accrued interest.

1970—Subsec. (a). Pub. L. 91-506, § 4(1), substituted "1810 or 1819" for "1810".

Subsec. (b). Pub. L. 91-506, § 4(1), (2), substituted "1810 or 1819" for "1810" and provided that the Administrator make, or enter into commitments to make, to any eligible veteran, a loan for any of the purposes described in section 1819 dealing with loans to purchase mobile homes and lots as well as section 1810(a) dealing with the purchase or construction of homes.

Subsec. (c)(1). Pub. L. 91-506, § 4(3), inserted reference to mobile home loans.

Subsec. (d)(1). Pub. L. 91-506, § 4(4), inserted reference to mobile home loans.

Subsec. (d)(2)(A). Pub. L. 91-506, § 4(5), redesignated subsec. (d)(2) as subsec. (d)(2)(A), and as so redesignated substituted "Except for any loan made under this chapter for the purposes described in section 1819 of this title, the" for "The".

Subsec. (d)(2)(B). Pub. L. 91-506, § 4(6), added provision limiting the original principal amount of any loan made under this section for the purchase of mobile homes and mobile home lots under section 1819 of this title to the amount specified by the Administrator pursuant to subsec. (d) of section 1819.

Subsec. (g). Pub. L. 91-506, § 4(7), substituted "1810 or 1819 of this title, as appropriate" for "1810 of this title".

Subsec. (h). Pub. L. 91-506, § 4(8), substituted provisions permitting the Administrator to exempt dwellings constructed through assistance provided by this section from the minimum land planning and subdivision requirements of this title so long as such dwellings meet minimum requirements of structural soundness and general acceptability for provisions establishing a direct loan expiration date by reference to those for guaranteed loans.

Subsec. (i). Pub. L. 91-506, § 4(8), substituted provisions authorizing, Administrator to make or enter into a commitment to make, loans to assist disabled veterans in acquiring specially adapted housing if they are eligible for provisions authorizing Administrator to reserve funds available for loans to enable veterans to purchase dwellings in a housing credit shortage area provided the builder pays a nonrefundable commitment fee, not to exceed 2 percent of the funds reserved, authorizing the Administrator to make advances during construction of the dwelling, authorizing the Administrator to permit a private lender to purchase such loan, and permitting the Administrator to exempt dwellings constructed through assistance provided by this subsec. from the minimum land planning and subdivision requirements of this title so long as such dwellings meet minimum requirements of structural soundness and general acceptability.

Subsec. (j). Pub. L. 91-506, § 4(8), substituted provisions authorizing Administrator to reserve funds avail-

able for loans to enable veterans to purchase housing in a housing credit shortage area, or in any area for a disabled veteran eligible for specially adapted housing, provided the builder pays a nonrefundable commitment fee, not to exceed 2 percent of the funds reserved and authorizing the Administrator to make advances during construction of the dwelling for provisions authorizing the Administrator to process loan applications notwithstanding the assistance of the Voluntary Home Mortgage Credit Committee in trying to place such loans with private lenders, authorizing the Administrator to complete the processing of such loan applications unless he is notified by such Committee that it was able to place any such loan with a private lender, and defining "working days".

1969—Subsec. (d)(2), (3). Pub. L. 91-22 substituted "$21,000" for "$17,500" wherever appearing.

1968—Subsec. (d)(2). Pub. L. 90-301 substituted "$12,500" for "$7,500" in two instances.

1967—Subsec. (d)(2). Pub. L. 90-77, § 404(a), authorized an increase in amount of direct loan limits from $17,500 to $25,000 where Administrator finds cost levels so require.

Subsec. (d)(3). Pub. L. 90-77, § 404(b), authorized an increase in aggregate amount of direct loans to $25,000 where Administrator finds cost levels so require.

1966—Subsec. (d)(2), (3). Pub. L. 89-358 substituted "$17,500" for "$15,000", wherever appearing.

1964—Subsec. (g). Pub. L. 88-402 substituted provisions authorizing the Administrator to sell loans at a price which he determines to be reasonable but not less than 98 per centum of the unpaid principal balance, plus the full amount of the accrued interest, and if the loans are offered to an investor in a package or block of two or more loans at not less than 98 per centum of the aggregate unpaid principal balance of the loans included in such package or block, plus the full amount of accrued interest, for provisions which permitted the Administrator to sell loans only at a price not less than par.

1961—Subsec. (d)(2), (3). Pub. L. 87-84, § 2(a), substituted "$15,000" for "$13,500", wherever appearing.

Subsec. (h). Pub. L. 87-84, § 2(b), substituted "to any veteran after the expiration of his entitlement pursuant to section 1803(a)(3) of this title except pursuant to a commitment issued by the Administrator before such entitlement expires" for "after July 25, 1962, except pursuant to commitments issued by the Administrator before that date."

1960—Subsec. (h). Pub. L. 86-665 substituted "1962" for "1960".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment of subsecs. (b), (c), (g), and (k) by section 7(12) to (15), respectively, of Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as an Effective Date of 1976 Amendment note under section 1801 of this title.

Amendment of subsec. (d)(2)(A) and (3) by section 3 of Pub. L. 94-324 effective Oct. 1, 1976, see section 9(b) of Pub. L. 94-324, set out as an Effective Date of 1976 Amendment note under section 1801 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-569 effective Dec. 31, 1974, see section 10 of Pub. L. 93-569, set out as an Effective Date of 1974 Amendment note under section 1802 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective on the first day of the first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1810, 1816, 1823 of this title.

[§§ 1812 to 1814. Repealed. Pub. L. 93-569, § 7(a), Dec. 31, 1974, 88 Stat. 1866]

Section 1812, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1210, automatically guaranteed loans made to a veteran if made for the purpose of purchasing farms and farm equipment.

Section 1813, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1211, automatically guaranteed loans made to a veteran if made for the purpose of purchasing business property.

Section 1814, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1211, Pub. L. 86-665, § 3, July 14, 1960, 74 Stat. 531; Pub. L. 87-84, § 1(c), July 6, 1961, 75 Stat. 201, automatically guaranteed loans made to a veteran if made for the purpose of refinancing delinquent indebtedness.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective Dec. 31, 1974, see section 10 of Pub. L. 93-569, set out as an Effective Date of 1974 Amendment note under section 1802 of this title.

§ 1815. Insurance of loans

(a) Any loan which might be guaranteed under the provisions of this chapter, when made or purchased by any financial institution subject to examination and supervision by any agency of the United States or of any State may, in lieu of such guaranty, be insured by the Administrator under an agreement whereby the Administrator will reimburse any such institution for losses incurred on such loan up to 15 per centum of the aggregate of loans so made or purchased by it.

(b) Loans insured under this section shall be made on such other terms, conditions, and restrictions as the Administrator may prescribe within the limitations set forth in this chapter.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1212; Pub. L. 93-569, § 8(5), Dec. 31, 1974, 88 Stat. 1866; Pub. L. 94-324, § 7(16), June 30, 1976, 90 Stat. 721.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-324 substituted "the Administrator will" for "he will".

1974—Subsec. (b). Pub. L. 93-569 struck out provision authorizing the Administrator to fix the maximum interest rate payable on non-real-estate loans at not in excess of 3 percent discount rate or an equivalent straight interest rate on unamortized loans.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as an Effective Date of 1976 Amendment note under section 1801 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-569 effective Dec. 31, 1974, see section 10 of Pub. L. 93-569, set out as an Effective Date of 1974 Amendment note under section 1802 of this title.

§ 1816. Procedure on default

(a) In the event of default in the payment of any loan guaranteed under this chapter, the holder of the obligation shall notify the Administrator who shall thereupon pay to such holder the guaranty not in excess of the pro rata portion of the amount originally guaranteed, and shall be subrogated to the rights of the holder of the obligation to the extent of the amount paid on the guaranty. Before suit

or foreclosure the holder of the obligation shall notify the Administrator of the default, and within thirty days thereafter the Administrator may, at the Administrator's option, pay the holder of the obligation the unpaid balance of the obligation plus accrued interest and receive an assignment of the loan and security. Nothing in this section shall preclude any forebearance for the benefit of the veteran as may be agreed upon by the parties to the loan and approved by the Administrator. The Administrator may establish the date, not later than the date of judgment and decree of foreclosure or sale, upon which accrual of interest or charges shall cease.

(b) With respect to any loan made under section 1811 which has not been sold as provided in subsection (g) of such section, if the Administrator finds, after there has been a default in the payment of any installment of principal or interest owing on such loan, that the default was due to the fact that the veteran who is obligated under the loan has become unemployed as the result of the closing (in whole or in part) of a Federal installation, the Administrator shall (1) extend the time for curing the default to such time as the Administrator determines is necessary and desirable to enable such veteran to complete payments on such loan, including an extension of time beyond the stated maturity thereof, or (2) modify the terms of such loan for the purpose of changing the amortization provisions thereof by recasting, over the remaining term of the loan, or over such longer period as the Administrator may determine, the total unpaid amount then due with the modification to become effective currently or upon the termination of an agreed-upon extension of the period for curing the default.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1212; Pub. L. 89–117, title I, § 107(f), Aug. 10, 1965, 79 Stat. 460; Pub. L. 94–324, § 7(17), June 30, 1976, 90 Stat. 722.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–324 substituted "the Administrator's" for "his".

Subsec. (b). Pub. L. 94–324 substituted "the Administrator" for "he" in three instances.

1965—Pub. L. 89–117 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as an Effective Date of 1976 Amendment note under section 1801 of this title.

§ 1817. Release from liability under guaranty

(a) Whenever any veteran disposes of residential property securing a guaranteed, insured, or direct loan obtained by the veteran, the Administrator, upon application made by such veteran and by the transferee incident to such disposal, shall issue to such veteran in connection with such disposal a release relieving the veteran of all further liability to the Administrator on account of such loan (including liability for any loss resulting from any default of the transferee or any subsequent purchaser of such property) if the Administrator has determined, after such investigation as the Administrator may deem appropriate, that (1) the loan is current, and (2) the purchaser of such property from such veteran (A) is obligated by contract to purchase such property and to assume full liability for the repayment of the balance of the loan remaining unpaid, and has assumed by contract all of the obligations of the veteran under the terms of the instruments creating and securing the loan, and (B) qualifies from a credit standpoint, to the same extent as if the transferee were a veteran eligible under section 1810 of this title, for a guaranteed or insured or direct loan in an amount equal to the unpaid balance of the obligation for which the transferee has assumed liability.

(b) If any veteran disposes of residential property securing a guaranteed, insured, or direct loan obtained by the veteran under this chapter without receiving a release from liability with respect to such loan under subsection (a), and a default subsequently occurs which results in liability of the veteran to the Administrator on account of the loan, the Administrator may relieve the veteran of such liability if the Administrator determines, after such investigation as the Administrator deems appropriate, that the property was disposed of by the veteran in such a manner, and subject to such conditions, that the Administrator would have issued the veteran a release from liability under subsection (a) with respect to the loan if the veteran had made application therefor incident to such disposal. Failure of a transferee to assume by contract all of the liabilities of the original veteran-borrower shall bar such release of liability only in cases in which no acceptable transferee, either immediate or remote, is legally liable to the Administrator for the indebtedness of the original veteran-borrower arising from termination of the loan. The failure of a veteran to qualify for release from liability under this subsection does not preclude relief from being granted under subsection 3102(b) of this title, if eligible thereunder.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1212; Pub. L. 92–328, title II, § 204, June 30, 1972, 86 Stat. 397; Pub. L. 94–324, § 7(18), (19), June 30, 1976, 90 Stat. 722.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–324, § 7(18), substituted "the veteran" for "him" in two instances, "the Administrator may deem" for "he may deem", "the transferee were a veteran" for "he were a veteran", "the transferee has assumed" for "he has assumed", and "is obligated" for "has obligated himself".

Subsec. (b). Pub. L. 94–324, § 7(19), substituted "obtained by the veteran" for "obtained by him", "the Administrator determines" for "he determines", and "the Administrator deems" for "he deems".

1972—Pub. L. 92–328 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as an Effective Date of 1976 Amendment note under section 1801 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-328 effective on June 30, 1972, see section 301(c) of Pub. L. 92-328, set out as an Effective Date of 1972 Amendment note under section 210 of this title.

§ 1818. Veterans who serve after January 31, 1955

(a) Each veteran who served on active duty, any part of which occurred after January 31, 1955, and who—

(1) served for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable;

(2) has served more than 180 days in active duty status and continues on active duty without a break therein; or

(3) was discharged or released from active duty after such date for a service-connected disability;

shall be eligible for the benefits of this chapter, subject to the provisions of this section.

(b) Entitlement under subsection (a), (1) shall cancel any unused entitlement under other provisions of this chapter derived from service during World War II or the Korean conflict, and (2) shall be reduced by the amount by which entitlement from service during World War II or the Korean conflict has been used to obtain a direct, guaranteed, or insured loan—

(A) on real property which the veteran owns at the time of application; or

(B) as to which the Administrator has incurred actual liability or loss, unless in the event of loss or the incurrence and payment of such liability by the Administrator the resulting indebtedness has been paid in full.

(c) Any entitlement to the benefits of this section which had not expired as of the date of enactment of the Veterans' Housing Act of 1970 and any entitlement to such benefits accruing after such date shall not expire until used.

(Added Pub. L. 89-358, § 5(a), Mar. 3, 1966, 80 Stat. 25, and amended Pub. L. 91-506, § 2(e), Oct. 23, 1970, 84 Stat. 1108; Pub. L. 93-569, § 8(6), (7), Dec. 31, 1974, 88 Stat. 1866, 1867; Pub. L. 94-324, § 4, June 30, 1976, 90 Stat. 720.)

REFERENCES IN TEXT

The date of enactment of the Veterans' Housing Act of 1970, referred to in subsec. (c) is the date of enactment of Pub. L. 91-506, which was approved Oct. 23, 1970.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-324 substituted provisions requiring a veteran of active military duty after Jan. 31, 1955 to have served on active duty for a period of more than 180 days, and to have been discharged under conditions other than dishonorable, or to continue on active duty without a break therein, or, to have been discharged from active duty after Jan. 31, 1955 for a service-connected disability, in order to be eligible for the benefits of this chapter, for provision which referred to pars. (1) and (2) of subsec. (a) of section 1652 of this title defining eligibility for veteran's benefits.

1974—Subsec. (a). Pub. L. 93-569, § 8(6), struck out "(except sections 1813 and 1815, and business loans under section 1814, of this title)" after "of this chapter".

Subsec. (c). Pub. L. 93-569, § 8(7), redesignated subsec. (d) as (c). Former subsec. (c), providing that entitlement under subsec. (a) shall include eligibility for purposes specified in sections 1813 and 1815, and business loans under section 1814 if the veteran previously derived entitlement to the benefits of this chapter based on service during World War II or the Korean conflict and had not used any of his entitlement, was struck out.

Subsec. (d). Pub. L. 93-569, § 8(7), redesignated subsec. (d) as (c).

1970—Subsec. (c). Pub. L. 91-506 substituted provision which saves for World War II and Korean conflict veterans who are also post-Korean veterans the privilege of obtaining business loans and insured loans, not available to post-Korean veterans, providing the veteran derived entitlements based on World War II or Korean conflict service and he has not used any of his entitlement derived from such service for expiration of eligibility provisions for post-Korean veterans.

Subsec. (d). Pub. L. 91-506 substituted provision that post-Korean veterans' entitlements shall not expire until used, for provision authorizing collection of one-half percent fee on loans to post-Korean veterans.

Subsec. (e). Pub. L. 91-506 repealed subsec. (e) which gave World War II and Korean conflict veterans who were also post-Korean veterans the privilege of obtaining business loans and insured loans, not available to post-Korean veterans, without having to pay one-half percent fee required of post-Korean veterans provided their entitlement to benefits based on World War II or the Korean conflict had not expired and provided that the veteran had not used any of his entitlement derived from such service.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as an Effective Date of 1976 Amendment note under section 1801 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-569 effective Dec. 31, 1974, see section 10 of Pub. L. 93-569, set out as an Effective Date of 1974 Amendment note under section 1802 of this title.

§ 1819. Loans to purchase mobile homes and mobile home lots

(a) Notwithstanding any other provision of this chapter, any veteran eligible for loan guaranty benefits under this chapter who has maximum home loan guaranty entitlement available for use shall be eligible for the mobile home loan guaranty benefit or the mobile home lot loan guaranty benefit, or both, under this section. Use of the mobile home loan guaranty benefit or the mobile home lot loan guaranty benefit, or both, provided by this section shall preclude the use of any home loan guaranty entitlement under any other section of this chapter until the loan guaranteed under this section has been paid in full.

(b)(1) Subject to the limitations in subsection (d) of this section, a loan to purchase a mobile home under this section may include (or be augmented by a separate loan for) (A) an amount to finance the acquisition of a lot on which to place such home, and (B) an additional amount to pay expenses reasonably necessary for the appropriate preparation of such a lot, including but not limited to, the installation of utility connections, sanitary facilities and paving, and the construction of a suitable pad.

(2) Subject to the limitations in subsection (d) of this section, a loan may be made to purchase a lot on which to place a mobile home if the veteran already has such a home. Such a loan may include an amount sufficient to pay expenses reasonably necessary for the appropriate preparation of such a lot, including, but not limited to, the installation of utility connections, sanitary facilities, and paving, and the construction of a suitable pad.

(c)(1) Any loan to a veteran eligible under subsection (a) shall be guaranteed by the Administrator if (A) the loan is for the purpose of purchasing a new mobile home or for the purchase of a used mobile home which meets or exceeds minimum requirements for construction, design, and general acceptability prescribed by the Administrator, or the loan is for the purpose of purchasing a lot on which to place a mobile home previously purchased by the veteran, whether or not such mobile home was purchased with a loan guaranteed, insured or made by another Federal agency, and (B) the loan complies in all other respects with the requirements of this section. Loans for such purpose (including those which will also finance the acquisition of a lot or site preparation as authorized by subsection (b) of this section) shall be submitted to the Administrator for approval prior to loan closing except that the Administrator may exempt any lender of a class listed in section 1802(d) of this title from compliance with such prior approval requirement if the Administrator determines that the experience of such lender or class of lenders in mobile home financing warrants such exemption.

(2) Upon determining that a loan submitted for prior approval is eligible for guaranty under this section, the Administrator shall issue a commitment to guarantee such loan and shall thereafter guarantee the loan when made if such loan qualifies therefor in all respects.

(3) The Administrator's guaranty shall not exceed 50 percent of the loan, including any amount for lot acquisition and site preparation, and payment of such guaranty shall be made only after liquidation of the security for the loan and the filing of an accounting with the Administrator. In any such accounting the Administrator shall permit to be included therein accrued unpaid interest from the date of the first uncured default to such cutoff date as the Administrator may establish, and the Administrator shall allow the holder of the loan to charge against the liquidation or resale proceeds, accrued interest from the cutoff date established to such further date as the Administrator may determine and such costs and expenses as the Administrator determines to be reasonable and proper. The liability of the United States under the guaranty provided for by this section shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.

(d)(1) The Administrator shall establish a loan maximum for each type of loan authorized by this section. In the case of a new mobile home, the Administrator may establish a maximum loan amount based on the manufacturer's invoice cost to the dealer and such other cost factors as the Administrator considers proper to take into account. In the case of a used mobile home, the Administrator shall establish a maximum loan amount based on the Administrator's determination of the reasonable value of the property. In the case of any lot on which to place a mobile home, whether or not the mobile home was financed with assistance under this section, and in the case of necessary site preparation, the loan amount for such purposes may not exceed the reasonable value of such lot or an amount appropriate to cover the cost of necessary site preparation or both, as determined by the Administrator.

(2) The maximum permissible loan amounts and the terms for which the loans are made shall not exceed—

(A) $12,500 for twelve years and thirty-two days in the case of a loan covering the purchase of a single-wide mobile home only and such additional amount as is determined by the Administrator to be appropriate to cover the cost of necessary site preparation where the veteran owns the lot, or

(B) $20,000 for twenty years and thirty-two days in the case of a loan covering the purchase of a double-wide mobile home only and such additional amount as is determined by the Administrator to be appropriate to cover the cost of necessary site preparation where the veteran owns the lot, or

(C) $20,000 (but not to exceed $12,500 for the mobile home) for fifteen years and thirty-two days in the case of a loan covering the purchase of a single-wide mobile home and an undeveloped lot on which to place such home, which includes such amount as is determined by the Administrator to be appropriate to cover the cost of necessary site preparation, or

(D) $27,500 (but not to exceed $20,000 for the mobile home) for twenty years and thirty-two days in the case of a loan covering the purchase of a double-wide mobile home and an undeveloped lot on which to place such home, which includes such amount as is determined by the Administrator to be appropriate to cover the cost of necessary site preparation, or

(E) $20,000 (but not to exceed $12,500 for the mobile home) for fifteen years and thirty-two days in the case of a loan covering the purchase of a single-wide mobile home and a suitably developed lot on which to place such home, or

(F) $27,500 (but not to exceed $20,000 for the mobile home) for twenty years and thirty-two days in the case of a loan covering the purchase of a double-wide mobile home and a suitably developed lot on which to place such home, or

(G) $7,500 for twelve years and thirty-two days in the case of a loan covering the purchase of only an undeveloped lot on which to place a mobile home owned by the veteran, which includes such amount as is determined by the Administrator to be appropriate to cover the cost of necessary site preparation, or

(H) $7,500 for twelve years and thirty-two days in the case of a loan covering the purchase of a suitably developed lot on which to place a mobile home owned by the veteran.

(3) Such limitations set forth in paragraph (2) of this subsection on the amount and term of any loan shall not be deemed to preclude the Administrator, under regulations which the Administrator shall prescribe, from consenting to necessary advances for the protection of the security or the holder's lien, or to a reasonable extension of the term or reamortization of such loan.

(e) No loan shall be guaranteed under this section unless—

(1) the loan is repayable in approximately equal monthly installments;

(2) the terms of repayment bear a proper relationship to the veteran's present and anticipated income and expenses, and the veteran is a satisfactory credit risk, taking into account the purpose of this program to make available lower cost housing to low and lower income veterans, especially those who have been recently discharged or released from active military, naval, or air service, who may not have previously established credit ratings;

(3) the loan is secured by a first lien on the mobile home purchased with the proceeds of the loan and on any lot acquired or improved with the proceeds of the loan;

(4) the amount of the loan, subject to the maximums established in subsection (d) of this section, is not in excess of the maximum amount prescribed by the Administrator;

(5) the veteran certifies, in such form as the Administrator shall prescribe, that the veteran will personally occupy the property as the veteran's home;

(6) the mobile home is or will be placed on a site which meets specifications which the Administrator shall establish by regulation; and

(7) the interest rate to be charged on the loan does not exceed the permissible rate established by the Administrator.

(f) The Administrator shall establish such rate of interest for mobile home loans and mobile home lot loans as the Administrator determines to be necessary in order to assure a reasonable supply of mobile home loan financing for veterans under this section.

(g) Entitlement to the loan guaranty benefit used under this section shall be restored a single time for any veteran by the Administrator provided the first loan has been repaid in full.

(h) The Administrator shall promulgate such regulations as the Administrator determines to be necessary or appropriate in order to fully implement the provisions of this section, and such regulations may specify which provisions in other sections of this chapter the Administrator determines should be applicable to loans guaranteed or made under this section. The Administrator shall have such powers and responsibilities in respect to matters arising under this section as the Administrator has in respect to loans made or guaranteed or under other sections of this chapter.

(i) No loan for the purchase of a mobile home shall be guaranteed under this section unless the mobile home and lot, if any, meet or exceed standards for planning, construction, and general acceptability as prescribed by the Administrator and no loan for the purchase of a lot on which to place a mobile home owned by a veteran shall be guaranteed under this section unless the lot meets such standards prescribed for mobile home lots. Such standards shall be designed to encourage the maintenance and development of sites for mobile homes which will be attractive residential areas and which will be free from, and not substantially contribute to, adverse scenic or environmental conditions. For the purpose of assuring compliance with such standards, the Administrator shall from time to time inspect the manufacturing process of mobile homes to be sold to veterans and conduct random onsite inspections of mobile homes purchased with assistance under this chapter.

(j) The Administrator shall require the manufacturer to become a warrantor of any new mobile home which is approved for purchase with financing through the assistance of this chapter and to furnish to the purchaser a written warranty in such form as the Administrator shall require. Such warranty shall include (1) a specific statement that the mobile home meets the standards prescribed by the Administrator pursuant to the provisions of subsection (i) of this section; and (2) a provision that the warrantor's liability to the purchaser or owner is limited under the warranty to instances of substantial nonconformity to such standards which become evident within one year from date of purchase and as to which the purchaser or owner gives written notice to the warrantor not later than ten days after the end of the warranty period. The warranty prescribed herein shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under any other law or instrument and shall so provide in the warranty document.

(k) Subject to notice and opportunity for a hearing, the Administrator is authorized to deny guaranteed or direct loan financing in the case of mobile homes constructed by any manufacturer who refuses to permit the inspections provided for in subsection (i) of this section; or in the case of mobile homes which are determined by the Administrator not to conform to the aforesaid standards; or where the manufacturer of mobile homes fails or is unable to discharge the manufacturer's obligations under the warranty.

(*l*) Subject to notice and opportunity for a hearing, the Administrator may refuse to approve as acceptable any site in a mobile home park or subdivision owned or operated by any person whose rental or sale methods, procedures, requirements, or practices are determined by the Administrator to be unfair or prejudical to veterans renting or purchasing such sites. The Administrator may also refuse to guarantee or make direct loans for veterans to purchase mobile homes offered for sale by any dealer if substantial deficiencies have been discovered in such homes, or if the Administrator determines that there has been a failure or indicated inability of the dealer to discharge contractual liabilities to veterans, or that the type of contract of sale or methods, procedures, or practices pursued by the dealer in the marketing of such properties have been unfair or prejudicial to veteran purchasers.

(m) The Administrator's annual report to Congress shall, beginning 12 months following the date of enactment of the Veterans' Housing Act of 1970, include a report on operations under this section, including the results of inspections repaired by subsection (i) of this section, experience with compliance with the warranty required by subsection (j) of this section, and the experience regarding defaults and foreclosures.

(n) The provisions of sections 1804(d) and section 1821 of this chapter shall be fully applica-

ble to lenders making guaranteed mobile home loans and mobile home lot loans and holders of such loans.

(Added Pub. L. 91-506, § 5, Oct. 23, 1970, 84 Stat. 1110, and amended Pub. L. 93-569, § 5, Dec. 31, 1974, 88 Stat. 1864; Pub. L. 94-324, §§ 5, 7(20)-(23), June 30, 1976, 90 Stat. 720, 722.)

REFERENCES IN TEXT

The date of enactment of the Veteran's Housing Act of 1970, referred to in subsec. (m), is the date of enactment of Pub. L. 91-506, which was approved on Oct. 23, 1970.

AMENDMENTS

1976—Subsec. (c)(1). Pub. L. 94-324, § 7(20), substituted "the Administrator determines" for "he determines".

Subsec. (c)(3). Pub. L. 94-324, §§ 5, 7(20), increased the amount of the Administrator's guaranty from 30 per centum of the loan to 50 per centum of the loan and substituted "the Administrator" for "he" in three instances.

Subsec. (d)(1). Pub. L. 94-324, § 7(21), substituted "the Administrator's" for "his".

Subsec. (d)(3). Pub. L. 94-324, § 7(21), substituted "the Administrator shall" for "he shall".

Subsec. (e)(4). Pub. L. 94-324, § 7(22), substituted "subsection" for "subparagraph".

Subsec. (e)(5). Pub. L. 94-324, § 7(22), substituted "the veteran will" for "he will" and "the veteran's" for "his".

Subsec. (f). Pub. L. 94-324, § 7(23), substituted "the Administrator determines" for "he determines".

Subsec. (h). Pub. L. 94-324, § 7(23), substituted "the Administrator determines" for "he determines" in two instances and "the Administrator has" for "he has".

Subsec. (k). Pub. L. 94-324, § 7(23), substituted "the manufacturer's obligations" for "his obligations".

Subsec. (l). Pub. L. 94-324, § 7(23), substituted "the Administrator determines" for "he determines".

1974—Subsec. (a). Pub. L. 93-569, § 5(1), added "or the mobile home lot loan guaranty benefit, or both," after "loan guaranty benefit" wherever appearing therein, and struck out "mobile home" preceding "loan guaranteed under this section".

Subsec. (b)(1). Pub. L. 93-569, § 5(2), designated existing provisions as subsec. (b)(1), and in (b)(1) as so designated, redesignated cls. (1) and (2) as (A) and (B), respectively.

Subsec. (b)(2). Pub. L. 93-569, § 5(2), added subsec. (b)(2).

Subsec. (c)(1). Pub. L. 93-569, § 5(3), (4), redesignated cls. (1) and (2) as (A) and (B), respectively, and in cl. (A) as so redesignated, added provision relating to the purchase of a lot on which to place a mobile home previously purchased by the veteran, whether or not such mobile home was purchased with a loan guaranteed, insured or made by another Federal agency, and substituted "or for the purchase of a used mobile home which meets or exceeds minimum requirements for construction, design, and general acceptability prescribed by the Administrator," for "or for the purchase of a used mobile home which is the security for a prior loan guaranteed or made under this section or for a loan guaranteed, insured or made by another Federal agency."

Subsec. (d)(1). Pub. L. 93-569, § 5(5), substituted ", whether or not the mobile home was financed with assistance under this section, and in the case of necessary site preparation, the loan amount for such purposes may not exceed the reasonable value of such lot" for "financed through the assistance of this section and in the case of necessary site preparation, the loan amount shall not be increased by an amount in excess of the reasonable value of such lot".

Subsec. (d)(2)(A). Pub. L. 93-569, § 5(6), substituted "$12,500" for "$10,000," and "single wide mobile home only" for "mobile home only,".

Subsec. (d)(2)(B). Pub. L. 93-569, § 5(6), increased from $15,000 to $20,000, and from fifteen years and thirty-two days to twenty years and thirty-two days the amount and period of the loan, struck out the $10,000 maximum allowable amount for the mobile home, and restricted the amount of the loan to the purchase of a double-wide mobile home instead of a mobile home and undeveloped lot.

Subsec. (d)(2)(C). Pub. L. 93-569, § 5(6), substituted "$20,000" for "$17,500," "$12,500" for "$10,000," "single-wide mobile home" for "mobile home" and "an undeveloped lot" for "a suitably developed lot," and added provision including such amount as is appropriate to cover the cost of site preparation.

Subsec. (d)(2)(D) to (H). Pub. L. 93-569, § 5(6), added subsecs. (d)(2)(D) to (H).

Subsec. (e)(3). Pub. L. 93-569, § 5(7), added "purchased with the proceeds of the loan and on" after "mobile home".

Subsec. (f). Pub. L. 93-569, § 5(8), added "and mobile home lot loans" after "loans".

Subsec. (i). Pub. L. 93-569, § 5(9), added provision prohibiting the guarantee of a loan for the purchase of a lot on which to place a mobile home unless the lot meets prescribed standards.

Subsec. (n). Pub. L. 93-569, § 5(10), added "and mobile home lot loans" after "mobile home loans".

Subsec. (o). Pub. L. 93-569, § 5(11), struck out subsec. (o), which prohibited the making or guaranteeing of loans on and after July 1, 1975, except upon prior commitment.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment of subsecs. (c)(1), (3), (d)(1), (3), (e)(4), (5), (f), (h), (k), and (l) by sections 7(20) to (23) of Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as an Effective Date of 1976 Amendment note under section 1801 of this title.

Amendment of subsec. (c)(3) by section 5 of Pub. L. 94-324, increasing the amount of the Administrator's guaranty from 30 per centum of the loan to 50 per centum of the loan effective July 1, 1976, see section 9(b) of Pub. L. 94-324, set out as an Effective Date of 1976 Amendment note under section 1801 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-569 effective Dec. 31, 1974, see section 10 of Pub. L. 93-569, set out as an Effective Date of 1974 Amendment note under section 1802 of this title.

EFFECTIVE DATE

Section 8 of Pub. L. 91-506 provided that: "Section 5 of this Act [enacting this section] shall become effective sixty days following the date of enactment [Oct. 23, 1970]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1811 of this title; title 12 section 1757.

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

§ 1820. Powers of Administrator

(a) Notwithstanding the provisions of any other law, with respect to matters arising by reason of this chapter, the Administrator may—

(1) sue and be sued in the Administrator's official capacity in any court of competent jurisdiction, State or Federal;

(2) subject to specific limitations in this chapter, consent to the modification, with respect to rate of interest, time of payment of principal or interest or any portion thereof, security or other provisions of any note, contract, mortgage or other instrument securing

a loan which has been guaranteed, insured, made or acquired under this chapter;

(3) pay, or compromise, any claim on, or arising because of, any such guaranty or insurance;

(4) pay, compromise, waive or release any right, title, claim, lien or demand, however acquired, including any equity or any right of redemption;

(5) purchase at any sale, public or private, upon such terms and for such prices as the Administrator determines to be reasonable, and take title to, property, real, personal or mixed; and similarly sell, at public or private sale, exchange, assign, convey, or otherwise dispose of any such property; and

(6) complete, administer, operate, obtain and pay for insurance on, and maintain, renovate, repair, modernize, lease, or otherwise deal with any property acquired or held pursuant to this chapter. The acquisition of any such property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction of, on, or over such property (including power to tax) or impair the rights under the State or local law of any persons on such property. Without regard to section 3617, Revised Statutes (31 U.S.C. 484), or any other provision of law not expressly in limitation of this paragraph, the Administrator may permit brokers utilized by the Administrator in connection with such properties to deduct from rental collections amounts covering authorized fees, costs, and expenses incurred in connection with the management, repair, sale, or lease of any such properties and remit the net balances to the Administrator.

(b) The powers granted by this section may be exercised by the Administrator without regard to any other provision of law not enacted expressly in limitation of this section, which otherwise would govern the expenditure of public funds; however, section 5 of title 41 shall apply to any contract for services or supplies on account of any property acquired pursuant to this section if the amount of such contract exceeds $1,000.

(c) The financial transactions of the Administrator incident to, or arising out of, the guaranty or insurance of loans pursuant to this chapter, and the acquisition, management, and disposition of property, real, personal, or mixed, incident to such activities and pursuant to this section, shall be final and conclusive upon all officers of the Government.

(d) The right to redeem provided for by section 2410(c) of title 28 shall not arise in any case in which the subordinate lien or interest of the United States derives from a guaranteed or insured loan.

(e)(1) The Administrator is authorized from time to time, as the Administrator determines advisable, to set aside first mortgage loans, and installment sale contracts, owned and held by the Administrator under this chapter as the basis for the sale of participation certificates as herein provided. For this purpose the Administrator may enter into agreements, including trust agreements, with the Government National Mortgage Association, and any other Federal agency, under which the Association as fiduciary may sell certificates of participation based on principal and interest collections to be received by the Administrator and the Association or any other such agency on first mortgage loans and installment sale contracts comprising mortgage pools established by them. The agreement may provide for substitution or withdrawal of mortgage loans, or installment sale contracts, or for substitution of cash for mortgages in the pool. The agreement shall provide that the Government National Mortgage Association shall promptly pay to the Administrator the entire proceeds of any sale of certificates of participation to the extent such certificates are based on mortgages, including installment sale contracts, set aside by the Administrator and the Administrator shall periodically pay to the Association, as fiduciary, such funds as are required for payment of interest and principal due on outstanding certificates of participation to the extent of the pro rata amount allocated to the Administrator pursuant to the agreement. The agreement shall also provide that the Administrator shall retain ownership of mortgage loans and installment sale contracts set aside by the Administrator pursuant to the agreement unless transfer of ownership to the fiduciary is required in the event of default or probable default in the payment of participation certificates. The Administrator is authorized to purchase outstanding certificates of participation to the extent of the amount of the Administrator's commitment to the fiduciary on participants outstanding and to pay the Administrator's proper share of the costs and expenses incurred by the Government National Mortgage Association as fiduciary pursuant to the agreement.

(2) The Administrator shall proportionately allocate and deposit the entire proceeds received from the sale of participations into the funds established pursuant to sections 1823 and 1824 of this chapter, as determined on an estimated basis, and the amounts so deposited shall be available for the purposes of the funds. The Administrator may nevertheless make such allocations of that part of the proceeds of participation sales representing anticipated interest collections on mortgage loans, including installment sale contracts, on other than an estimated proportionate basis if determined necessary to assure payment of interest on advances theretofore made to the Administrator by the Secretary of the Treasury for direct loan purposes. The Administrator shall set aside and maintain necessary reserves in the funds established pursuant to sections 1823 and 1824 of this chapter to be used for meeting commitments pursuant to this subsection and, as the Administrator determines to be necessary, for meeting interest payments on advances by the Secretary of the Treasury for direct loan purposes.

(f) Whenever loss, destruction, or damage to any residential property securing loans guaranteed, insured, made, or acquired by the Administrator under this chapter occurs as the result of a major disaster as determined by the President under the Disaster Relief Act of 1974, the Administrator shall (1) provide counseling and such other service to the owner of such property as may be feasible and shall inform such owner concerning the disaster assistance availa-

ble from other Federal agencies and from State or local agencies, and (2) pursuant to subsection (a)(2) of this section, extend on an individual case basis such forebearance or indulgence to such owner as the Administrator determines to be warranted by the facts of the case and the circumstances of such owner.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1213; Pub. L. 88–151, § 1, Oct. 17, 1963, 77 Stat. 271; Pub. L. 88–560, title VII, § 701(e)(1), Sept. 2, 1964, 78 Stat. 800; Pub. L. 89–625, Oct. 4, 1966, 80 Stat. 874; Pub. L. 89–769, § 3(c), Nov. 6, 1966, 80 Stat. 1316; Pub. L. 90–448, title VIII, § 807(h), Aug. 1, 1968, 82 Stat. 545; Pub. L. 91–606, title II, § 233, Dec. 31, 1970, 84 Stat. 1753; Pub. L. 92–328, title II, § 205, June 30, 1972, 86 Stat. 397; Pub. L. 93–288, title VI, § 602(l), May 22, 1974, 88 Stat. 164; Pub. L. 94–324, § 7(24)–(26), June 30, 1976, 90 Stat. 722.)

REFERENCES IN TEXT

The Disaster Relief Act of 1974, referred to in subsec. (f), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables volume.

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94–324, § 7(24), substituted "the Administrator's" for "his".

Subsec. (a)(5). Pub. L. 94–324, § 7(24), substituted "the Administrator" for "he".

Subsec. (a)(6). Pub. L. 94–324, § 7(25), substituted "utilized by the Administrator" for "utilized by him".

Subsec. (e)(1). Pub. L. 94–324, § 7(26), substituted "the Administrator determines" for "he determines", "by the Administrator" for "by him", "the Administrator shall periodically" for "he shall periodically", "set aside by the Administrator" for "set aside by him", "the Administrator's commitment" for "his commitment", and "to pay the Administrator's" for "to pay his".

Subsec. (e)(2). Pub. L. 94–324, § 7(26), substituted "as the Administrator determines" for "as he determines".

1974—Subsec. (f). Pub. L. 93–288 substituted "Disaster Relief Act of 1974" for "Disaster Assistance Act of 1970."

1972—Subsec. (a)(4). Pub. L. 92–328 struck out provisions relating to the authority to waive or release claims, including partial or total waiver of payment, following default and loss of property.

1970—Subsec. (a)(2). Pub. L. 91–606, § 233(1), substituted "a loan which has been guaranteed, insured, made or acquired under this chapter" for "a loan which has been guaranteed or insured under this chapter".

Subsec. (f). Pub. L. 91–606, § 233(2), directed the Administrator in major disaster areas to provide the owner of property lost, destroyed, or damaged as the result of a major disaster with counseling and other services, to inform him of disaster assistance available from other Federal, state, or local agencies and to extend such forbearance on an individual case basis as he determines to be warranted by the facts of the case.

1968—Subsec. (e)(1). Pub. L. 90–448 substituted "Government National Mortgage Association" for "Federal National Mortgage Association" in three instances.

1966—Subsec. (a)(6). Pub. L. 89–625 authorized brokers utilized by the Administrator in connection with properties acquired or held pursuant to this chapter to deduct from rental collections amounts covering authorized fees, costs, and expenses incurred in connection with the management, repair, sale, or lease of the properties and to remit the net balances to the Administrator.

Subsec. (f). Pub. L. 89–769 added subsec. (f).

1964—Subsec. (e). Pub. L. 88–560 added subsec. (e).

1963—Subsec. (a)(4). Pub. L. 88–151 provided for waiver of indebtedness to the United States in certain cases arising out of default on loans guaranteed or made by the Veterans' Administration.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–324 effective June 30, 1976, see section 9(a) of Pub. L. 94–324, set out as an Effective Date of 1976 Amendment note under section 1801 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–328 effective on June 30, 1972, see section 301(c) of Pub. L. 92–328, set out as an Effective Date of 1972 Amendment note under section 210 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–606 to take effect on Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as an Effective Date of 1970 Amendment note under section 165 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–448 effective from and after a date, no more than 120 days following Aug. 1, 1968, as established by the Secretary of Housing and Urban Development, see section 808 of Pub. L. 90–448, set out as an Effective Date note under section 1716b of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment of section by Pub. L. 89–769 applicable with respect to any major disaster occurring after Oct. 3, 1964, see section 14 of Pub. L. 89–769.

WAIVER OF INDEBTEDNESS; REPORT TO CONGRESS

Section 2 of Pub. L. 88–151 provided that: "The Administrator of Veterans' Affairs shall submit to the Committee on Labor and Public Welfare of the Senate and the Committee on Veterans' Affairs of the House of Representatives, not later than December 31 of each year, a written report concerning each case in which a waiver of indebtedness has been made under the authority of the amendment made by the first section of this Act [amending subsec. (a)(4) of this section]. Such report shall include, together with such other information as the Administrator deems appropriate, the name and address of each person with respect to which a waiver of indebtedness has been made and the total amount of such waiver."

ADMINISTRATION OF TRUSTS BY FEDERAL NATIONAL MORTGAGE ASSOCIATION

Provision for participation sales and administration of trusts by Federal National Mortgage Association not to be construed as a repeal or modification of the provisions of subsection (e) of this section respecting the authority of the Administrator of Veterans' Affairs, see section 6(a) of Pub. L. 89–429, set out as a note under section 1717 of Title 12, Banks and Banking.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 28 section 2410.

§ 1821. Incontestability

Any evidence of guaranty or insurance issued by the Administrator shall be conclusive evidence of the eligibility of the loan for guaranty or insurance under the provisions of this chapter and of the amount of such guaranty or insurance. Nothing in this section shall preclude the Administrator from establishing, as against

the original lender, defenses based on fraud or material misrepresentation. The Administrator shall not, by reason of anything contained in this section, be barred from establishing, by regulations in force at the date of such issuance or disbursement, whichever is the earlier, partial defenses to the amount payable on the guaranty or insurance.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1213.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1819 of this title.

[§ 1822. Repealed. Pub. L. 93–569, § 7(a), Dec. 31, 1974, 88 Stat. 1866]

Section, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1214; Pub. L. 89–358, § 5(c), Mar. 3, 1966, 88 Stat. 26; Pub. L. 89–623, § 1, Oct. 4, 1966, 80 Stat. 873; Pub. L. 90–301, § 2 (b), May 7, 1968, 82 Stat. 113, provided for the bringing of an action in the district court, by the veteran or the Attorney General, against one who knowingly participated in the sale of property to a veteran for consideration in excess of the reasonable value of the property.

EFFECTIVE DATE OF REPEAL

Repeal of section effective Dec. 31, 1974, see section 10 of Pub. L. 93–569, set out as an Effective Date of 1974 Amendment note under section 1802 of this title.

§ 1823. Direct loan revolving fund

(a) For the purposes of section 1811 of this title, the revolving fund heretofore established by section 513 of the Servicemen's Readjustment Act of 1944 is continued in effect. For the purposes of further augmenting the revolving fund, the Secretary of the Treasury is authorized and directed to advance to the Administrator from time to time after December 31, 1958, and until June 30, 1961, such sums (not in excess of $150,000,000 in any one fiscal year, including prior advancements in fiscal year 1959) as the Administrator may request, except that the aggregate so advanced in any one quarter annual period shall not exceed the sum of $50,000,000, less that amount which has been returned to the revolving fund during the preceding quarter annual period from the sale of loans pursuant to section 1811(g) of this title. In addition to the sums authorized in this subsection the Secretary of the Treasury shall also advance to the Administrator such additional sums, not in excess of $100,000,000, as the Administrator may request, and the sums so advanced shall be made available without regard to any limitation contained in this subsection with respect to the amount which may be advanced in any one quarter annual period. The Secretary of the Treasury shall also advance to the Administrator from time to time such additional sums as the Administrator may request, not in excess of $100,000,000 to be immediately available, plus an additional amount not in excess of $400,000,000 after June 30, 1961, plus $200,000,000 after June 30, 1962, plus $150,000,000 after June 30, 1963, plus $150,000,000 after June 30, 1964, plus $100,000,000 after June 30, 1965, plus $100,000,000 after June 30, 1966. Any such authorized advance which is not requested by the Administrator in the fiscal year in which the advance may be made shall be made thereafter when requested by the Administrator, except that no such request or advance may be made after June 30, 1967. Such authorized advances are not subject to the quarter annual limitation in the second sentence of this subsection, but the amount authorized to be advanced in any fiscal year after June 30, 1962, shall be reduced only by the amount which has been returned to the revolving fund during the preceding fiscal year from the sale of loans pursuant to section 1811(g) of this title. In addition the Secretary is authorized and directed to make available to the Administrator for this purpose from time to time as the Administrator may request the amount of any funds which may have been deposited to the credit of miscellaneous receipts under this subsection or subsection (c) of this section.

(b) On advances to such revolving fund by the Secretary of the Treasury, less those amounts deposited in miscellaneous receipts under subsections (a) and (c) the Administrator shall pay semiannually to the Treasurer of the United States interest at the rate or rates determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the advance. The Administrator shall not be required to pay interest on transfers made pursuant to the Act of February 13, 1962 (76 Stat. 8), from the capital of the "direct loans to veterans and reserves revolving fund" the "loan guaranty revolving fund" and adjustments shall be made for payments of interest on such transfers before the date of enactment of this sentence.

(c) In order to make advances to such revolving fund, as authorized by law to effectuate the purposes and functions authorized in section 1811 of this title, the Secretary of the Treasury may use, as a public debt transaction, the proceeds of the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act include such purposes. Such sums, together with all receipts under this section and section 1811 of this title, shall be deposited with the Treasurer of the United States, in a special deposit account, and shall be available, respectively, for disbursement for the purposes of section 1811 of this title. Except as otherwise provided in subsection (a) of this section, the Administrator shall from time to time cause to be deposited into the Treasury of the United States, to the credit of miscellaneous receipts, such of the funds in such account as in the Administrator's judgment are not needed for the purposes for which they were provided, including the proceeds of the sale of any loans.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1214; Pub. L. 86–73, § 4, June 30, 1959, 73 Stat. 156; Pub. L. 86–665, § 4, July 14, 1960, 74 Stat. 532; Pub. L. 87–84, § 3, July 6, 1961, 75 Stat. 202; Pub. L. 88–274, Feb. 29, 1964, 78 Stat. 147; Pub. L. 88–560, title VII, § 701(e)(2), Sept. 2, 1964, 78 Stat. 801; Pub. L. 94–324, §§ 6, 7(27), June 30, 1976, 90 Stat. 721, 722.)

REFERENCES IN TEXT

Section 513 of the Servicemen's Readjustment Act of 1944, referred to in subsec. (a), is section 513 of act June 22, 1944, ch. 268, 58 Stat. 284, as added by act Apr. 20, 1950, ch. 94, title III, § 301(h), 64 Stat. 75 which was not classified to the Code. The Servicemen's Readjustment Act of 1944 was repealed by section 14(87) of Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1273, section 1 of which enacted Title 38, Veterans' Benefits. Such of the provisions of section 513 as were restated in Title 38 by Pub. L. 85-857, are set out in sections 1823 and 1811(k) thereof.

The Act of February 13, 1962, referred to in subsec. (b), is act February 13, 1962, Pub. L. 87-404, 76 Stat. 8, which was an appropriations act and not classified to the Code.

Before the date of enactment of this sentence, referred to subsec. (b), means before the enactment of Pub. L. 88-274, which was approved Feb. 29, 1964.

The Second Liberty Bond Act, as amended, referred to in subsec. (c), is act Sept. 24, 1917, ch. 56, 40 Stat. 288. For complete classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-324, §§ 6(1), 7(27), deleted provision directing the Administrator to deposit with the Treasurer of the United States, funds representing unexpended advances from the loan program under section 1811 of this title as well as funds derived from the repayment of the principal of direct home loans, and substituted "the Administrator may" for "he may".

Subsec. (c). Pub. L. 94-324, §§ 6(2), 7(27), deleted provision directing the Administrator to deposit in the special deposit account amounts received in repayment of outstanding obligations after June 30, 1976 and substituted "the Administrator's" for "his".

1964—Subsec. (a). Pub. L. 88-560, § 701(e)(2)(1), inserted ", and a reasonable reserve for meeting commitments pursuant to subsection 1820(e) of this title".

Subsec. (b). Pub. L. 88-274 provided that the Administrator shall not be required to pay interest on transfers pursuant to Act Feb. 13, 1962, (76 Stat. 8) from the "direct loans to veterans and reserves revolving fund" to the "loan guaranty revolving fund", and that adjustments shall be made for such payments made before this amendment.

Subsec. (c). Pub. L. 88-560, § 701(e)(2), inserted "and for the purposes of meeting commitments under subsection 1820(e) of this title".

1961—Subsec. (a). Pub. L. 87-84, § 3(a), substituted "1961" for "1962" in the second sentence, authorized the Secretary of the Treasury to advance sums to be available immediately and after June 30 in years 1961-1966, free of quarter annual limitation but subject to certain reduction after June 30, 1962, and deleted "except that no sums may be made available after July 25, 1962" following "miscellaneous receipts under this subsection or subsection (c) of this section".

Subsec. (c). Pub. L. 87-84, § 3(b), substituted "1976" for "1963".

1960—Subsec. (a). Pub. L. 86-665, § 4(a), substituted "1962" for "1960" in two instances.

Subsec. (c). Pub. L. 86-665, § 4(b), substituted "1963" for "1961".

1959—Subsec. (a). Pub. L. 86-73 authorized an additional $100,000,000 for direct home loans to veterans.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as an Effective Date of 1976 Amendment note under section 1801 of this title.

REDUCTION OF AMOUNT OF ADVANCES AFTER JUNE 30, 1966

Pub. L. 89-555, title I, § 101, Sept. 6, 1966, 80 Stat. 679, provided in part that: "The amount authorized by section 1823(a) of title 38, United States Code, to be advanced after June 30, 1966, by the Secretary of the Treasury to the Administrator, for the purposes of the 'Direct loan revolving fund' is hereby reduced by the amount of $100,000,000."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 806, 1811, 1820, 1827 of this title.

§ 1824. Loan guaranty revolving fund

(a) There is hereby established in the Treasury of the United States a revolving fund known as the Veterans' Administration Loan Guaranty Revolving Fund (herinafter called the Fund).

(b) The Fund shall be available to the Administrator when so provided in appropriation Acts and within such limitations as may be included in such Acts, without fiscal year limitation, for all loan guaranty and insurance operations under this chapter, except administrative expenses.

(c) There shall be deposited in the Fund (1) by transfer from current and future appropriations for readjustment benefits such amounts as may be necessary to supplement the Fund in order to meet the requirements of the Fund, and (2) all amounts now held or hereafter received by the Administrator incident to loan guaranty and insurance operations under this chapter, including but not limited to all collections of principal and interest and the proceeds from the use of property held or the sale of property disposed of.

(d) The Administrator shall determine annually whether there has developed in such Fund a surplus which, in the Administrator's judgment, is more than necessary to meet the needs of the Fund, and such surplus, if any, shall immediately be transferred into the general fund receipts of the Treasury.

(Added Pub. L. 86-665, § 7(a), July 14, 1960, 74 Stat. 532, and amended Pub. L. 94-324, § 7(28), June 30, 1976, 90 Stat. 722.)

PRIOR PROVISIONS

A prior section 1824 was renumbered 1825.

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-324 substituted "the Administrator's" for "his".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as an Effective Date of 1976 Amendment note under section 1801 of this title.

EFFECTIVE DATE

Section 7(c) of Pub. L. 86-665 provided that: "This section shall become effective as of July 1, 1961."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1820, 1827 of this title.

§ 1825. Waiver of discharge requirements for hospitalized persons

The benefits of this chapter may be afforded to any person who is hospitalized pending final discharge from active duty, if said person is qualified therefor in every respect except for discharge.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1215, § 1824, renumbered Pub. L. 86-665, § 7(a), July 14, 1960, 74 Stat. 532, and amended Pub. L. 94-324, § 7(29), June 30, 1976, 90 Stat. 722.)

AMENDMENTS

1976—Pub. L. 94-324 substituted "said person" for "he".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as an Effective Date of 1976 Amendment note under section 1801 of this title.

§ 1826. Withholding of payments, benefits, etc.

(a) The Administrator shall not, unless the Administrator first obtains the consent in writing of an individual, set off against, or otherwise withhold from, such individual any benefits payable to such individual under any law administered by the Veterans' Administration because of liability allegedly arising out of any loan made to, assumed by, or guaranteed or insured on account of, such individual under this chapter.

(b) No officer, employee, department, or agency of the United States shall set off against, or otherwise withhold from, any veteran or the surviving spouse of any veteran any payments (other than benefit payments under any law administered by the Veterans' Administration) which such veteran or surviving spouse would otherwise be entitled to receive because of any liability to the Administrator allegedly arising out of any loan made to, assumed by, or guaranteed or insured on account of, such veteran or surviving spouse under this chapter, unless (1) there is first received the consent in writing of such veteran or surviving spouse, as the case may be, or (2) such liability and the amount thereof was determined by a court of competent jurisdiction in a proceeding to which such veteran or surviving spouse was a party.

(Added Pub. L. 89-358, § 5(f)(1), Mar. 3, 1966, 80 Stat. 26, and amended Pub. L. 94-324 § 7(30), June 30, 1976, 90 Stat. 722.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-324 substituted "the Administrator" for "he".

Subsec. (b). Pub. L. 94-324 substituted "surviving spouse" for "widow" wherever appearing therein.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as an Effective Date of 1976 Amendment note under section 1801 of this title.

§ 1827. Expenditures to correct or compensate for structural defects in mortgaged homes

(a) The Administrator is authorized, with respect to any property improved by a one- to four-family dwelling inspected during construction by the Veterans' Administration or the Federal Housing Administration which the Administrator finds to have structural defects seriously affecting the livability of the property, to make expenditures for (1) correcting such defects, (2) paying the claims of the owner of the property arising from such defects, or (3) acquiring title to the property; except that such authority of the Administrator shall exist only (A) if the owner requests assistance under this section not later than four years (or such shorter time as the Administrator may prescribe) after the mortgage loan was made, guaranteed, or insured, and (B) if the property is encumbered by a mortgage which is made, guaranteed, or insured under this chapter after the date of enactment of this section.

(b) The Administrator shall by regulation prescribe the terms and conditions under which expenditures and payments may be made under the provisions of this section, and the Administrator's decisions regarding such expenditures or payments, and the terms and conditions under which the same are approved or disapproved, shall be final and conclusive, and shall not be subject to judicial review.

(c) The Administrator is authorized to make expenditures for the purposes of this section from the funds established pursuant to sections 1823 and 1824 of this title, as applicable.

(Added Pub. L. 90-301, § 5(a), May 7, 1968, 82 Stat. 116, and amended Pub. L. 94-324, § 7(31), June 30, 1976, 90 Stat. 722.)

REFERENCES IN TEXT

Date of enactment of this section, referred to in subsec. (a), means May 7, 1968, the date of approval of Pub. L. 90-301.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-324 substituted "the Administrator finds" for "he finds".

Subsec. (b). Pub. L. 94-324 substituted "the Administrator's" for "his".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as an Effective Date of 1976 Amendment note under section 1801 of this title.

CHAPTER 39—AUTOMOBILES AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS AND MEMBERS OF THE ARMED FORCES

Sec.
1901. Definitions.
1902. Assistance for providing automobile and adaptive equipment.
1903. Limitation on assistance; special training courses
1904. Research and development.

CODIFICATION

This chapter as added by Pub. L. 91-666, § 2(a), Jan. 11, 1971, 84 Stat. 1998, constitutes a general revision of the provisions of a prior chapter 39, as enacted by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1215, and amended thereafter. The analysis in the original consisted of the following provisions:

"Automobiles For Disabled Veterans" in the chapter heading.

"Veterans eligible for assistance" in item 1901.

"Limitation on types of assistance furnished and veterans otherwise entitled" in item 1902.

"Limitation on amounts paid by United States" in item 1903.

"Prohibition against duplication of benefits" in item 1904.

"Applications" in item 1905.

AMENDMENTS

1976—Pub. L. 94-581, title II, § 205(b)(1), Oct. 21, 1976, 90 Stat. 2858, struck out "; coordination with other Federal programs" in item 1904.

1974—Pub. L. 93-538, §§ 4(c), 5(b), Dec. 22, 1974, 88 Stat. 1737, inserted "; special training courses" in item 1903, and added item 1904.

§ 1901. Definitions

For purposes of this chapter—

(1) The term "eligible person" means—

(A) any veteran entitled to compensation under chapter 11 of this title for any of the disabilities described in subclause (i), (ii), or (iii) below, if the disability is the result of an injury incurred or disease contracted in or aggravated by active military, naval, or air service on or after September 16, 1940:

(i) The loss or permanent loss of use of one or both feet;

(ii) The loss or permanent loss of use of one or both hands;

(iii) The permanent impairment of vision of both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than twenty degrees in the better eye; or

(B) any member of the Armed Forces serving on active duty who is suffering from any disability described in subclause (i), (ii), or (iii) of clause (A) of this paragraph if such disability is the result of an injury incurred or disease contracted in or aggravated by active military, naval, or air service on or after September 16, 1940.

(2) The term "adaptive equipment" includes, but is not limited to, power steering, power brakes, power window lifts, power seats, and special equipment necessary to assist the eligible person into and out of the automobile or other conveyance. Such term also includes (A) air-conditioning equipment when such equipment is necessary to the health and safety of the veteran and to the safety of others, regardless of whether the automobile or other conveyance is to be operated by the eligible person or is to be operated for such person by another person; and (B) any modification of the size of the interior space of the automobile or other conveyance if needed because of the physical condition of such person in order for such person to enter or operate the vehicle.

(Added Pub. L. 91-666, § 2(a), Jan. 11, 1971, 84 Stat. 1998, and amended Pub. L. 93-538, § 2, Dec. 22, 1974, 88 Stat. 1736; Pub. L. 94-433, title III, § 303, Sept. 30, 1976, 90 Stat. 1377.)

Prior Provisions

A prior section 1901, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1215, as amended by Pub. L. 90-77, title II, § 204(a), Aug. 31, 1967, 81 Stat. 184, related to "veterans eligible for assistance" prior to the general revision of this chapter by Pub. L. 91-666. See present provisions of this section and section 1902 of this title.

Amendments

1976—Par. (1). Pub. L. 94-433, § 303(1), (2), substituted "on or after September 16, 1940" for "during World War II or thereafter" in cls. (A) and (B).

1974—Par. (1)(A). Pub. L. 93-538, § 2(1), substituted "World War II or thereafter" for "World War II, or the Korean conflict; or if the disability is the result of an injury incurred or disease contracted in or aggravated by active military, naval, or air service performed after January 31, 1955, and the injury was incurred or the disease was contracted in line of duty as a direct result of the performance of military duty."

Par. (1)(B). Pub. L. 93-538, § 2(2), substituted "World War II or thereafter" for "World War II, the Korean conflict, or the Vietnam era; or if such disability is the result of an injury incurred or disease contracted in or aggravated by any other active military, naval, or air service performed after January 31, 1955, and the injury was incurred or the disease was contracted in line of duty as a direct result of the performance of military duty."

Par. (2). Pub. L. 93-538, § 2(2), substituted definition of "adaptive equipment" for definition of "World War II".

Effective Date of 1976 Amendment

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effective Date of 1976 Amendment note under section 301 of this title.

Effective Date of 1974 Amendment

Section 6 of Pub. L. 93-538 provided that: "The provisions of this Act [enacting section 1904 of this title, amending this section and sections 1902 and 1903 of this title, and enacting provisions set out as a note under this section] shall become effective on the first day of the second calendar month following the date of enactment [Dec. 22, 1974], except that clause (3) of section 3 [amending subsec. (c) of section 1902 of this title] shall take effect on January 11, 1971."

Short Title

For Short Title of Pub. L. 91-666, Jan. 11, 1971, 84 Stat. 1998, which enacted this chapter, see Short Title of 1971 Amendment note set out under section 101 of this title.

§ 1902. Assistance for providing automobile and adaptive equipment

(a) The Administrator, under regulations which he shall prescribe, shall provide or assist in providing an automobile or other conveyance to each eligible person by paying the total purchase price of the automobile or other conveyance (including all State, local, and other taxes) or $3,300, whichever is the lesser, to the seller from whom the eligible person is purchasing under a sales agreement between the seller and the eligible person.

(b) The Administrator, under regulations which he shall prescribe, shall provide each eligible person the adaptive equipment deemed necessary to insure that the eligible person will be able to operate the automobile or other conveyance in a manner consistent with his own safety and the safety of others and so as to satisfy the applicable standards of licensure established by the State of his residency or other proper licensing authority.

(c) In accordance with regulations which he shall prescribe, the Administrator shall (1) repair, replace, or reinstall adaptive equipment deemed necessary for the operation of an automobile or other conveyance acquired in accordance with the provisions of this chapter, and (2) provide, repair, replace, or reinstall such adaptive equipment for any automobile or other conveyance which an eligible person may previously or subsequently have acquired.

(d) If an eligible person cannot qualify to operate an automobile or other conveyance, the

Administrator shall provide or assist in providing an automobile or other conveyance to such person, as provided in subsection (a) of this section, if the automobile or other conveyance is to be operated for the eligible person by another person.

(Added Pub. L. 91-666, § 2(a), Jan. 11, 1971, 84 Stat. 1999, and amended Pub. L. 93-538, § 3, Dec. 22, 1974, 88 Stat. 1736.)

PRIOR PROVISIONS

A prior section 1902, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1215, related to "limitation on types of assistance furnished and veterans otherwise entitled" prior to the general revision of this chapter by Pub. L. 91-666. See present provisions of this section and section 1903 of this title.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-538, § 3(1), (2), substituted "automobile or other conveyance (including all State, local, and other taxes) or $3,300" for "automobile or other conveyance or $2,800".

Subsec. (c). Pub. L. 93-538, § 3(3), substituted "person may previously or subsequently have acquired" for "person may subsequently have acquired".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of subsec. (a) by section 3(1), (2) of Pub. L. 93-538 effective on the first day of the second calendar month following Dec. 22, 1974, and amendment of subsec. (c) by section 3(3) of Pub. L. 93-538 effective on Jan. 11, 1971, see section 6 of Pub. L. 93-538, set out as an Effective Date of 1974 Amendment note under section 1901 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1903 of this title.

§ 1903. Limitations on assistance special training courses

(a) No eligible person shall be entitled to receive more than one automobile or other conveyance under the provisions of this chapter, and no payment shall be made under this chapter for the repair, maintenance, or replacement of an automobile or other conveyance.

(b) Except as provided in subsection (d) of section 1902 of this title, no eligible person shall be provided an automobile or other conveyance under this chapter until it is established to the satisfaction of the Administrator, in accordance with regulations he shall prescribe, that the eligible person will be able to operate the automobile or other conveyance in a manner consistent with his own safety and the safety of others and will satisfy the applicable standards of licensure to operate the automobile or other conveyance established by the State of his residency or other proper licensing authority.

(c) An eligible person shall not be entitled to adaptive equipment under this chapter for more than one automobile or other conveyance at any one time.

(d) Adaptive equipment shall not be provided under this chapter unless it conforms to minimum standards of safety and quality prescribed by the Administrator.

(e)(1) The Administrator shall provide, directly or by contract, for the conduct of special driver training courses at every hospital and, where appropriate, at regional offices and other medical facilities, of the Veterans' Administration to instruct such eligible person to operate the type of automobile or other conveyance such person wishes to obtain with assistance under this chapter, and may make such courses available to any veteran, eligible for care under chapter 17 of this title or member of the Armed Forces, who is determined by the Administrator to need the special training provided in such courses even though such veteran or member is not eligible for the assistance provided under this chapter.

(2) The Administrator is authorized to obtain insurance on automobiles and other conveyances (not owned by the Government) used in conducting the special driver training courses provided under this subsection and to obtain, at Government expense, personal liability and property damage insurance for all persons taking such courses without regard to whether such persons are taking the course on an in-patient or out-patient basis.

(3) Notwithstanding any other provision of law, the Administrator may obtain, by purchase, lease, gift, or otherwise, any automobile, motor vehicle, or other conveyance deemed necessary to carry out the purposes of this subsection, and may sell, assign, transfer, or convey any such automobile, vehicle, or conveyance to which the Veterans' Administration obtains title for such price and upon such terms as the Administrator deems appropriate; and any proceeds received from any such disposition shall be credited to the applicable Veterans' Administration appropriation.

(Added Pub. L. 91-666, § 2(a), Jan. 11, 1971, 84 Stat. 2000, and amended Pub. L. 93-538, § 4(a), (b), Dec. 22, 1974, 88 Stat. 1736, 1737; Pub. L. 94-581, title I, § 108, Oct. 21, 1976, 90 Stat. 2847.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior sections 1902 and 1904 of this title prior to the general revision of this chapter by Pub. L. 91-666.

A prior section 1903, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1216, related to "limitation on amounts paid by United States" prior to the general revision of this chapter by Pub. L. 91-666. See section 1902 of this title.

AMENDMENTS

1976—Subsec. (e)(1). Pub. L. 94-581, § 108(1), substituted "any veteran, eligible for care under chapter 17 of this title or member of the Armed Forces, who is determined" for "any veteran or member of the Armed Forces, eligible for care under chapter 17 of this title, who is determined".

Subsec. (e)(3). Pub. L. 94-581, § 108(2), added subsec. (e)(3).

1974—Pub. L. 93-538, § 4(b), substituted "Limitations on assistance; special training courses" for "Limitations on assistance" in the section catchline.

Subsec. (e). Pub. L. 93-538, § 4(a), added subsec. (e).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581 set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-538 effective on the first day of the second calendar month following Dec. 22,

1974, see section 6 of Pub. L. 93-538, set out as an Effective Date of 1974 Amendment note under section 1901 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1904 of this title.

§ 1904. Research and development

(a) In carrying out medical and prosthetic research under section 4101 of this title, the Administrator, through the Chief Medical Director, shall provide for special emphasis on the research and development of adaptive equipment and adapted conveyances (including vans) meeting standards of safety and quality prescribed under subsection (d) of section 1903, including support for the production and distribution of devices and conveyances so developed.

(b) In carrying out subsection (a) of this section, the Administrator, through the Chief Medical Director, shall consult and cooperate with the Secretary of Health, Education, and Welfare and the Commissioner of the Rehabilitation Services Administration, Department of Health, Education, and Welfare, in connection with programs carried out under section 3(b) of the Rehabilitation Act of 1973 (Public Law 93-112; 87 Stat. 357) (relating to the development and support, and the stimulation of the development and utilization, including production and distribution of new and existing devices, of innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems), section 202(b)(2) of such Act (relating to the establishment and support of Rehabilitation Engineering Research Centers), and section 405 of such Act (relating to the Secretarial responsibilities for planning, analysis, promoting utilization of scientific advances, and information clearinghouse activities).

(Added Pub. L. 93-538, § 5(a), Dec. 22, 1974, 88 Stat. 1737, and amended Pub. L. 94-581, title II, § 205(b)(2), (3), Oct. 21, 1976, 90 Stat. 2859.)

REFERENCES IN TEXT

Section 3(b) of the rehabilitation Act of 1973 and sections 202(b)(2) and 405 of such Act, referred to in subsec. (b), are classified to sections 702(b), 762(b)(2), and 785, respectively, of Title 29, Labor.

PRIOR PROVISIONS

A prior section 1904, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1216, relating to "prohibition against duplication of benefits", was omitted in the general revision of this chapter by Pub. L. 91-666, § 2(a), Jan. 11, 1971, 84 Stat. 1998. The provisions of former section 1904 are now covered by section 1903 of this title.

A prior section 1905, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1216; Pub. L. 90-77, title II, § 204(b), Aug. 31, 1967, 81 Stat. 184, relating to "applications", was omitted in the general revision of this chapter by Pub. L. 91-666, § 2(a), Jan. 11, 1971, 84 Stat. 1998.

AMENDMENTS

1976—Pub. L. 94-581, § 205(b)(2), struck out "; coordination with other Federal programs" in the section catchline.

Subsec. (a). Pub. L. 94-581, § 205(b)(3), substituted "medical and prosthetic research" for "prosthetic and orthopedic appliance research under section 216 and medical research".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE

Section effective on the first day of the second calendar month following Dec. 22, 1974, see section 6 of Pub. L. 93-538, set out as an Effective Date of 1974 Amendment note under section 1901 of this title.

CHAPTER 41—JOB COUNSELING, TRAINING, AND PLACEMENT SERVICE FOR VETERANS

Sec.
2001. Definitions.
2002. Purpose.
2002A. Deputy Assistant Secretary of Labor for Veterans' Employment.
2003. Assignment of veterans' employment representative.
2004. Employees of local offices.
2005. Cooperation of Federal agencies.
2006. Estimate of funds for administration; authorization of appropriations.
2007. Administrative controls; annual report.
2008. Cooperation and coordination with the Veterans' Administration.

AMENDMENTS

1976—Pub. L. 94-502, title VI, § 601(b)(2), Oct. 15, 1976, 90 Stat. 2404, added item 2002A.

1972—Pub. L. 92-540, title V, § 502(a), Oct. 24, 1972, 86 Stat. 1094, in the chapter heading substituted ", Training and" for "and Employment", redesignated former items 2001 to 2005 as items 2002 to 2006, and added items 2001, 2007, and 2008, and in redesignated item 2006 "authorization of appropriations".

1966—Pub. L. 89-358, § 6(a), Mar. 3, 1966, 80 Stat. 27, substituted "Job Counseling and Employment Placement Service for Veterans" for "Unemployment Benefits for Veterans" in the chapter heading.

1962—Pub. L. 87-675, § 1(b), (d), Sept. 19, 1962, 76 Stat. 558, 559, substituted "Purpose" for "Compensation for veterans under State agreements" in item 2001, "Assignment of veterans' employment representative" for "Unemployment compensation in absence of State agreements" in item 2002, "Employees of local offices" for "Payments to States" in item 2003, "Cooperation of Federal agencies" for "Information" in item 2004, and "Estimate of funds for administration" for "Penalties" in item 2005, and eliminated items 2006 to 2014 and the headings of subchapters I and II.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 29 sections 845, 871; title 42 section 1101.

§ 2001. Definitions

For the purposes of this chapter—

(1) The term "eligible veteran" means a person who served in the active military, naval, or air service and who was discharged or released therefrom with other than a dishonorable discharge.

(2) The term "eligible person" means—

(A) the spouse of any person who died of a service-connected disability,

(B) the spouse of any member of the Armed Forces serving on active duty who, at the time of application for assistance under this chapter, is listed, pursuant to section 556 of title 37 and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than

ninety days: (i) missing in action, (ii) captured in line of duty by a hostile force, or (iii) forcibly detained or interned in line of duty by a foreign government or power, or

(C) the spouse of any person who has a total disability permanent in nature resulting from a service-connected disability or the spouse of a veteran who died while a disability so evaluated was in existence.

(3) The term "State" means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, and may include, to the extent determined necessary and feasible, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1221, § 2010, renumbered Pub. L. 87–675, § 1(a), Sept. 19, 1962, 76 Stat. 558, and amended Pub. L. 89–358, § 6(c)(1), Mar. 3, 1966, 80 Stat. 27; Pub. L. 92–540, title V, § 502(a), Oct. 24, 1972, 86 Stat. 1094; Pub. L. 93–508, title IV, § 401(a), Dec. 3, 1974, 88 Stat. 1592.)

PRIOR PROVISIONS

A prior section 2001, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1217, which related to compensation for veterans under agreements with States, was repealed by section 1(a) of Pub. L. 87–675.

AMENDMENTS

1974—Pub. L. 93–508 redesignated existing par. (2) as (3), and added par. (2).

1972—Pub. L. 92–540 substituted provisions defining the terms "eligible veteran" and "State", for provisions stating the Congressional declaration of purpose. See section 2002 of this title.

1966—Pub. L. 89–358 inserted "or of service after January 31, 1955" following "veterans of any war".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–508 effective Dec. 3, 1974, see section 503 of Pub. L. 93–508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 601(b) of Pub. L. 92–540 provided that: "The provisions of title V of this Act [which enacted sections 2006 to 2008 and 2011 to 2013 of this title and section 591 of Appendix to Title 50, War and National Defense, and amended sections 2002 to 2005 and 3107 of this title, and section 511 of Appendix to title 50] shall become effective 90 days after the date of enactment of this Act [Oct. 24, 1972]."

SAVINGS PROVISIONS

Section 1(e) of Pub. L. 87–675 provided that: "Claims for benefits under [former] sections 2001 through 2009 of chapter 41 of title 38, United States Code, for any benefit week beginning before January 31, 1960, which claims are pending on the date these sections are repealed [Sept. 19, 1962], shall be adjudicated in the same manner and with the same effect as if the sections had not been repealed. For the purpose of administering the program with respect to such claims, all functions, powers, and duties conferred upon the Secretary of Labor by sections 2001 through 2009 are continued in effect, and all rules and regulations established by the Secretary of Labor pursuant to these sections, and in effect when the sections are repealed, shall remain in full force and effect until modified or suspended."

§ 2002. Purpose

The Congress declares as its intent and purpose that there shall be an effective (1) job and job training counseling service program, (2) employment placement service program, and (3) job training placement service program for eligible veterans and eligible persons and that, to this end policies shall be promulgated and administered by a Deputy Assistant Secretary of Labor for Veterans' Employment, established by section 2002A of this title, through a Veterans Employment Service within the Department of Labor, so as to provide such veterans and persons the maximum of employment and training opportunities through existing programs, coordination and merger of programs and implementation of new programs.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1217, § 2011, renumbered Pub. L. 87–675, § 1(a), Sept. 19, 1962, 76 Stat. 558, and amended Pub. L. 89–358, § 6(c), Mar. 3, 1966, 80 Stat. 27; Pub. L. 92–540, title V, § 502(a), Oct. 24, 1972, 86 Stat. 1094; Pub. L. 93–508, title IV, § 401(b), Dec. 3, 1974, 88 Stat. 1592; Pub. L. 94–502, title VI, § 601(a), Oct. 15, 1976, 90 Stat. 2404.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 2001 of this title prior to the amendment of this chapter by Pub. L. 92–540.

A prior section 2002, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1217, which related to compensation for veterans in absence of agreements with States, was repealed by section 1(a) of Pub. L. 87–675.

AMENDMENTS

1976—Pub. L. 94–502 inserted "by a Deputy Assistant Secretary of Labor for Veteran's Employment, established by section 2002A of this title," following "promulgated and administered".

1974—Pub. L. 93–508 substituted "eligible veterans and eligible persons" for "eligible veterans" and "to provide such veterans and persons" for "to provide such veterans".

1972—Pub. L. 92–540 substituted provisions stating the Congressional declaration of purpose, for provisions relating to the assignment of veterans' employment representatives. See section 2003 of this title.

1966—Pub. L. 89–358 inserted "or of service after January 31, 1955" following "veterans of any war" in clauses (3) and (5); "or of service after January 31, 1955" following "veteran of any war" in the first sentence; and "or of service after January 31, 1955," following "veterans of any war" in clauses (1) and (4), wherever appearing, respectively.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94–502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–508 effective Dec. 3, 1974, see section 503 of Pub. L. 93–508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–540 effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92–540, set out as an Effective Date of 1972 Amendment note under section 2001 of this title.

VETERANS' EMPLOYMENT PROVISIONS

Pub. L. 93-567, title I, § 104, Dec. 31, 1974, 88 Stat. 1848, as amended by Pub. L. 94-444, § 12(a), Oct. 1, 1976, 90 Stat. 1483; Pub. L. 94-502, title VI, § 601(c), Oct. 15, 1976, 90 Stat. 2404, effective Dec. 1, 1976, provided that:

"(a) [Repealed. Pub. L. 94-502, title VI, § 601(c), Oct. 15, 1976, 90 Stat. 2404, effective Dec. 1, 1976.]

"(b) The Secretary of Labor, in consultation and cooperation with the Administrator of Veterans' Affairs and the Secretary of Health, Education, and Welfare, shall provide for an outreach and public information program utilizing, to the maximum extent, the facilities of the Departments of Labor and Health, Education, and Welfare and the Veterans' Administration in order to (A) exercise maximum efforts to produce jobs and job training opportunities for individuals who served in the Armed Forces and were discharged within 4 years before the date of their application for such jobs or job training and inform all eligible veterans about employment, job training, on-the-job-training, and educational opportunities, under the Comprehensive Employment and Training Act of 1973, as amended, as provided for under title 38, United States Code, and under any other provision of law, and (B) inform all eligible applicants under the Comprehensive Employment and Training Act of 1973 [section 801 et seq. of Title 29, Labor], Federal contractors and subcontractors, all Federal departments and agencies, educational institutions, labor unions, and other employers, of their responsibilities under this subsection and under all such laws, and (C) provide the entities described in clause (B) of this subsection technical assistance in carrying out those responsibilities. The Secretary of Labor, in consultation and cooperation with the Administrator of Veterans' Affairs and the Secretary of Health, Education, and Welfare shall report to the appropriate committees of the Congress not later than 90 days after the date of enactment of this Act [Dec. 31, 1974] on the steps taken and regulations issued to carry out the provisions of this section and of section 205(c)(5) of the Comprehensive Employment and Training Act of 1973 [section 845(c) of title 29]. They shall also report to such committees on the same subjects not later than ninety days after the date of enactment of the Emergency Jobs Programs Extension Act of 1976 [Oct. 1, 1976]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 1101.

§ 2002A. Deputy Assistant Secretary of Labor for Veterans' Employment

There is established within the Department of Labor a Deputy Assistant Secretary of Labor for Veterans' Employment, appointed by the President by and with the advice and consent of the Senate, who shall be the principal advisor to the Secretary of Labor with respect to the formulation and implementation of all departmental policies and procedures to carry out (1) the purposes of this chapter, chapter 42, and chapter 43 of this title, and (2) all other Department of Labor employment, unemployment, and training programs to the extent they affect veterans.

(Added Pub. L. 94-502, title VI, § 601(b)(1), Oct. 15, 1976, 90 Stat. 2404.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2002 of this title.

§ 2003. Assignment of veterans' employment representative

The Secretary of Labor shall assign to each State a representative of the Veterans' Employment Service to serve as the veterans' employment representative, and shall further assign to each State one assistant veterans' employment representative per each 250,000 veterans and eligible persons of the State veterans population, and such additional assistant veterans' employment representatives as the Secretary shall determine, based on the data collected pursuant to section 2007 of this title, to be necessary to assist the veterans' employment representative to carry out effectively in that State the purposes of this chapter. Each veterans' employment representative and assistant veterans' employment representative shall be an eligible veteran who at the time of appointment shall have been a bona fide resident of the State for at least two years and who shall be appointed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 of[1] subchapter III of chapter 53 of such title, relating to classification and general schedule pay rates. Each such veterans' employment representative and assistant veterans' employment representative shall be attached to the staff of the public employment service in the State to which they have been assigned. They shall be administratively responsible to the Secretary of Labor for the execution of the Secretary's veterans' and eligible persons' counseling and placement policies through the public employment service and in cooperation with manpower and training programs administered by the Secretary or by prime sponsors under the Comprehensive Employment and Training Act in the State. In cooperation with the public employment service staff and the staffs of each such other program in the State, the veterans' employment representative and such representative's assistants shall—

(1) be functionally responsible for the supervision of the registration of eligible veterans and eligible persons in local employment offices for suitable types of employment and training and for counseling and placement of eligible veterans and eligible persons in employment and job training programs;

(2) engage in job development and job advancement activities for eligible veterans and eligible persons, including maximum coordination with appropriate officials of the Veterans' Administration in that agency's carrying out of its responsibilities under subchapter IV of chapter 3 of this title and in the conduct of job fairs, job marts, and other special programs to match eligible veterans and eligible persons with appropriate job and job training opportunities;

(3) assist in securing and maintaining current information as to the various types of available employment and training opportunities, including maximum use of electronic data processing and telecommunications systems and the matching of an eligible veteran's or an eligible person's particular qualifications with an available job or on-job training or apprenticeship opportunity which is commensurate with those qualifications;

[1] So in original. Probably should be "and".

(4) promote the interest of employers and labor unions in employing eligible veterans and eligible persons and in conducting on-job training and apprenticeship programs for such veterans and persons;

(5) maintain regular contact with employers, labor unions, training programs and veterans' organizations with a view to keeping them advised of eligible veterans and eligible persons available for employment and training and to keeping eligible veterans and eligible persons advised of opportunities for employment and training;

(6) promote the participation of veterans in Comprehensive Employment and Training Act programs and monitor the implementation and operation of Comprehensive Employment and Training Act programs to assure that eligible veterans receive special consideration when required; and

(7) assist in every possible way in improving working conditions and the advancement of employment of eligible veterans and eligible persons.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1218, § 2012, renumbered Pub. L. 87–675, § 1(a), Sept. 19, 1962, 76 Stat. 558, and amended Pub. L. 89–358, § 6(c)(1), Mar. 3, 1966, 80 Stat. 27; Pub. L. 92–540, title V, § 502(a), Oct. 24, 1972, 86 Stat. 1094; Pub. L. 93–508, title IV, § 401(c), Dec. 3, 1974, 88 Stat. 1592; Pub. L. 94–502, title VI, §§ 602, 606(1), Oct. 15, 1976, 90 Stat. 2404, 2405.)

REFERENCES IN TEXT

The Comprehensive Employment and Training Act, referred to in opening par. and in par. (6), is Pub. L. 93–203, Dec. 28, 1973, 87 Stat. 839, as amended, which is classified principally to chapter 17 (§ 801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 29 and Tables volume.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 2002 of this title prior to the amendment of this chapter by Pub. L. 92–540.

A prior section 2003, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1218, which related to payments to the States equal to payments made by them in accordance with an agreement under this chapter, was repealed by section 1(a) of Pub. L. 87–675.

AMENDMENTS

1976—Pub. L. 94–502 substituted "the Secretary shall determine" for "he shall determine", "such representative's" for "his", "administered by the Secretary or by prime sponsors under the Comprehensive Employment and Training Act" for "administered by the Secretary", redesignated former cl. (6) as (7), and added cl. (6).

1974—Pub. L. 93–508 substituted "250,000 veterans and eligible persons of the State" for "250,000 veterans of the State", and "Secretary's veterans' and eligible persons' counseling and placement policies" for "Secretary's veterans' counseling and placement policies", and in cls. (1), (2), (4), (5), and (6) of the fifth sentence substituted "eligible veterans and eligible persons" for "eligible veterans", in cl. (3), substituted "eligible veteran's or an eligible person's" for "eligible veteran's", and in cl. (4), substituted "such veterans and persons" for "such veterans".

1972—Pub. L. 92–540 substituted provisions relating to the assignment of veterans' employment representatives, for provisions relating to the assignment of employees of local offices. See section 2004 of this title.

1966—Pub. L. 89–358 inserted "or of service after January 31, 1955" following "veterans of any war".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94–502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–508 effective Dec. 3, 1974, see section 503 of Pub. L. 93–508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–540 effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92–540, set out as an Effective Date of 1972 Amendment note under section 2001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 29 section 871; title 42 section 1101.

§ 2004. Employees of local offices

Except as may be determined by the Secretary of Labor based on a demonstrated lack of need for such services, there shall be assigned by the administrative head of the employment service in each State one or more employees, preferably eligible veterans or eligible persons, on the staffs of local employment service offices, whose services shall be fully devoted to discharging the duties prescribed for the veterans' employment representative and such representative's assistants.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1219, § 2013, renumbered Pub. L. 87–675, § 1(a), Sept. 19, 1962, 76 Stat. 558, and amended Pub. L. 89–358, § 6(c)(1), Mar. 3, 1966, 80 Stat. 27; Pub. L. 92–540, title V, § 502(a), Oct. 24, 1972, 86 Stat. 1094; Pub. L. 94–502, title VI, § 606(2), Oct. 15, 1976, 90 Stat. 2405.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 2003 of this title prior to the amendment of this chapter by Pub. L. 92–540.

A prior section 2004, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1219, which related to information necessary to determine a veteran's entitlement to compensation and which all Federal departments and agencies were required to make available to State agencies or to the Secretary, was repealed by section 1(a) of Pub. L. 87–675.

AMENDMENTS

1976—Pub. L. 94–502 substituted "eligible veterans or eligible persons" for "eligible veterans" and "such representative's" for "his".

1972—Pub. L. 92–540 substituted provisions relating to the assignment of employees of local offices, for provisions relating to the cooperation of other Federal agencies. See section 2005 of this title.

1966—Pub. L. 89–358 inserted "or of service after January 31, 1955" following "veterans of any war".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94–502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–540 effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92–540, set

out as an Effective Date of 1972 Amendment note under section 2001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2007 of this title.

§ 2005. Cooperation of Federal agencies

All Federal agencies shall furnish the Secretary of Labor such records, statistics, or information as the Secretary may deem necessary or appropriate in administering the provisions of this chapter, and shall otherwise cooperate with the Secretary in providing continuous employment and training opportunities for eligible veterans and eligible persons.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1219, § 2014, renumbered and amended Pub. L. 87-675, § 1(a), (c), Sept. 19, 1962, 76 Stat. 558, 559; Pub. L. 92-540, title V, § 502(a), Oct. 24, 1972, 86 Stat. 1094; Pub. L. 93-508, title IV, § 401(d), Dec. 3, 1974, 88 Stat. 1592; Pub. L. 94-502, title VI, § 606(3), Oct. 15, 1976, 90 Stat. 2405.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 2004 of this title prior to the amendment of this chapter by Pub. L. 92-540.

A prior section 2005, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1219, which related to penalties for making false statements or representations, or for knowledgeable failure to disclose material facts in order to obtain or increase payments under this chapter, was repealed by section 1(a) of Pub. L. 87-675.

AMENDMENTS

1976—Pub. L. 94-502 substituted "the Secretary may deem" for "he may deem".

1974—Pub. L. 93-508 substituted "eligible veterans and eligible persons" for "eligible veterans".

1972—Pub. L. 92-540 substituted provisions relating to the cooperation of other Federal agencies, for provisions relating to the estimation of funds for administration. See section 2006 of this title.

1962—Pub. L. 87-675 substituted "chapter" for "subchapter" following "administration of this".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-540 effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92-540, set out as an Effective Date of 1972 Amendment note under section 2001 of this title.

§ 2006. Estimate of funds for administration; authorization of appropriations

(a) The Secretary of Labor shall estimate the funds necessary for the proper and efficient administration of this chapter. Such estimated sum shall include the annual amounts necessary for salaries, rents, printing and binding, travel, and communications. Sums thus estimated shall be included as a special item in the annual budget for the Department of Labor. Estimated funds necessary for proper counseling, placement, and training services to eligible veterans and eligible persons provided by the various State public employment service agencies shall each be separately identified in the budgets of those agencies as approved by the Department of Labor.

(b) There are authorized to be appropriated such sums as may be necessary for the proper and efficient administration of this chapter.

(c) In the event that the regular appropriations Act making appropriations for administrative expenses for the Department of Labor with respect to any fiscal year does not specify an amount for the purposes specified in subsection (b) of this section for that fiscal year, then of the amounts appropriated in such Act there shall be available only for the purposes specified in subsection (b) of this section such amount as was set forth in the budget estimate submitted pursuant to subsection (a) of this section.

(d) Any funds made available pursuant to subsections (b) and (c) of this section shall not be available for any purpose other than those specified in such subsections, except with the approval of the Secretary of Labor based on a demonstrated lack of need for such funds for such purposes.

(Added Pub. L. 92-540, title V, § 502(a), Oct. 24, 1972, 86 Stat. 1094, and amended Pub. L. 93-508, title IV, § 401(e), Dec. 3, 1974, 88 Stat. 1592; Pub. L. 94-502, title VI, § 603, Oct. 15, 1976, 90 Stat. 2404.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 2005 of this title prior to the amendment of this chapter by Pub. L. 92-540.

A prior section 2006, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1219, which authorized the Secretary to make rules and regulations necessary to carry out the provisions of the chapter, and required him to consult with representatives of the State unemployment compensation agencies before prescribing any rules which could affect the performance of such agencies, was repealed by Pub. L. 87-675, § 1(a), Sept. 19, 1962, 76 Stat. 558.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502 substituted "agencies shall each be" for "agencies shall be".

1974—Subsec. (a). Pub. L. 93-508 substituted "training services to eligible veterans and eligible persons" for "training services to veterans".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

EFFECTIVE DATE

Section effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92-540, set out as an Effective Date of 1972 Amendment note under section 2001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2007 of this title.

§ 2007. Administrative controls; annual report

(a) The Secretary of Labor shall establish administrative controls for the following purposes:

(1) To insure that each eligible veteran, especially those veterans who have been recently discharged or released from active duty and each eligible person, who requests assistance under this chapter shall promptly be placed in a satisfactory job or job training opportunity or receive some other specific form of assistance designed to enhance such veteran's and eligible person's employment prospects substantially, such as individual job development or employment counseling services.

(2) To determine whether or not the employment service agencies in each State have committed the necessary staff to insure that the provisions of this chapter are carried out; and to arrange for necessary corrective action where staff resources have been determined by the Secretary of Labor to be inadequate.

(b) The Secretary of Labor shall establish definitive performance standards for determining compliance by the State public employment service agencies with the provisions of this chapter and chapter 42 of this title. A full report as to the extent and reasons for any noncompliance by any such State agency during any fiscal year, together with the agency's plan for corrective action during the succeeding year, shall be included in the annual report of the Secretary of Labor required by subsection (c) of this section.

(c) The Secretary of Labor shall report annually to the Congress on the success of the Department of Labor and its affiliated State employment service agencies in carrying out the provisions of this chapter. The report shall include, by State, the number of recently discharged or released eligible veterans, veterans with service-connected disabilities, other eligible veterans, and eligible persons who request assistance through the public employment service and, of these, the number placed in suitable employment or job training opportunities or who were otherwise assisted, with separate reference to occupational training and public service employment under appropriate Federal law. The report shall also include any determination by the Secretary under section 2004, 2006, or 2007(a) of this title and a statement of the reasons for such determination.

(Added Pub. L. 92-540, title V, § 502(a), Oct. 24, 1972, 86 Stat. 1094, and amended Pub. L. 93-508, title IV, § 401(f), Dec. 3, 1974, 88 Stat. 1592; Pub. L. 94-502, title VI, § 604, Oct. 15, 1976, 90 Stat. 2404.)

PRIOR PROVISIONS

A prior section 2007, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1220; Pub. L. 86-70, § 29(b), June 25, 1959, 73 Stat. 148; Pub. L. 86-624, § 25(c), July 12, 1960, 74 Stat. 418, which defined "Korean conflict veterans", "unemployment compensation", and "State", was repealed by Pub. L. 87-675, § 1(a), Sept. 19, 1962, 76 Stat. 558.

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-502, § 604(1), substituted "such veteran's and eligible person's" for "his".

Subsec. (c). Pub. L. 94-502, § 604(2), (3), substituted "occupational training and public service employment" for "occupational training" and "section 2004, 2006, or 2007(a)" for "section 2004 or 2006".

1974—Subsec. (a)(1). Pub. L. 93-508, § 401(f)(1) substituted "active duty and each eligible person" for "active duty".

Subsec. (b). Pub. L. 93-508, § 401(f)(2), redesignated former subsec. (b) as (c), and added subsec. (b).

Subsec. (c). Pub. L. 93-508, § 401(f)(2), (3), redesignated former subsec. (b) as (c), and in subsec. (c) as so redesignated, substituted "other eligible veterans, and eligible persons" for "and other eligible veterans".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

EFFECTIVE DATE

Section effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92-540, set out as an Effective Date of 1972 Amendment note under section 2001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2003 of this title.

§ 2008. Cooperation and coordination with the Veterans' Administration

In carrying out the Secretary's responsibilities under this chapter, the Secretary of Labor shall from time to time consult with the Administrator and keep the Administrator fully advised of activities carried out and all data gathered pursuant to this chapter to insure maximum cooperation and coordination between the Department of Labor and the Veterans' Administration.

(Added Pub. L. 92-540, title V, § 502(a), Oct. 24, 1972, 86 Stat. 1094, and amended Pub. L. 94-502, title VI, § 606(4), Oct. 15, 1976, 90 Stat. 2405.)

PRIOR PROVISIONS

A prior section 2008, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1220, which enumerated provisions which forbade duplication of benefits, was repealed by Pub. L. 87-675, § 1(a), Sept. 19, 1962, 76 Stat. 558.

A prior section 2009, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1221, which provided termination dates for the payment of benefits under this chapter, was repealed by Pub. L. 87-675, § 1(a), Sept. 19, 1962, 76 Stat. 558.

A prior section 2010 was renumbered section 2001, by Pub. L. 87-675, § 1(a), Sept. 19, 1962, 76 Stat. 558.

AMENDMENTS

1976—Pub. L. 94-502 substituted "the Secretary's" for "his" and "the Administrator fully advised" for "him fully advised".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE

Section effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92-540, set out as an Effective Date of 1972 Amendment note under section 2001 of this title.

CHAPTER 42—EMPLOYMENT AND TRAINING OF DISABLED AND VIETNAM ERA VETERANS

Sec.
2011. Definitions.
2012. Veterans' employment emphasis under Federal contract.
2013. Eligibility requirements for veterans under certain Federal manpower training programs.
2014. Employment within the Federal Government.

AMENDMENTS

1974—Pub. L. 93-508, title IV, § 403(b), Dec. 3, 1974, 88 Stat. 1594, added item 2014.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 2002A, 2007 of this title.

§ 2011. Definitions

As used in this chapter—

(1) The term "disabled veteran" means a person entitled to disability compensation under laws administered by the Veterans' Administration for a disability rated at 30 per centum or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in line of duty.

(2) The term "veteran of the Vietnam era" means a person (A) who (i) served on active duty for a period of more than 180 days, any part of which occurred during the Vietnam era, and was discharged or released therefrom with other than a dishonorable discharge, or (ii) was discharged or released from active duty for a service-connected disability if any part of such active duty was performed during the Vietnam era, and (B) who was so discharged or released within the 48 months preceding the person's application for employment covered under this chapter.

(3) The term "department and agency" means any department or agency of the Federal Government or any federally owned corporation.

(Added Pub. L. 92-540, title V, § 503(a), Oct. 24, 1972, 86 Stat. 1097, and amended Pub. L. 94-502, title VI, § 607(1), Oct. 15, 1976, 90 Stat. 2405.)

PRIOR PROVISIONS

A prior section 2011 was renumbered section 2002 by Pub. L. 87-675, § 1(a), Sept. 19, 1962, 76 Stat. 558.

AMENDMENTS

1976—Par. (2). Pub. L. 94-502 substituted "the person's" for "his".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE

Section effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92-540, set out as an Effective Date of 1972 Amendment note under section 2001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2014 of this title.

§ 2012. Veterans' employment emphasis under Federal contracts

(a) Any contract in the amount of $10,000 or more entered into by any department or agency for the procurement of personal property and nonpersonal services (including construction) for the United States, shall contain a provision requiring that the party contracting with the United States shall take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era. The provisions of this section shall apply to any subcontract entered into by a prime contractor in carrying out any contract for the procurement of personal property and non-personal services (including construction) for the United States. In addition to requiring affirmative action to employ such veterans under such contracts and subcontracts and in order to promote the implementation of such requirement, the President shall implement the provisions of this section by promulgating regulations within 60 days after the date of enactment of this section, which regulations shall require that (1) each such contractor undertake in such contract to list immediately with the appropriate local employment service office all of its suitable employment openings, and (2) each such local office shall give such veterans priority in referral to such employment openings.

(b) If any disabled veteran or veteran of the Vietnam era believes any contractor has failed or refuses to comply with the provisions of the contractor's contract with the United States, relating to the employment of veterans, such veteran may file a complaint with the Veterans' Employment Service of the Department of Labor. Such complaint shall be promptly referred to the Secretary who shall promptly investigate such complaint and shall take such action thereon as the facts and circumstances warrant consistent with the terms of such contract and the laws and regulations applicable thereto.

(c) The Secretary shall include as part of the annual report required by section 2007(c) of this title the number of complaints filed pursuant to subsection (b) of this section, the actions taken thereon and the resolutions thereof. Such report shall also include the number of contractors listing suitable employment openings, the nature, types, and number of positions listed and the number of veterans receiving priority pursuant to subsection (a)(2) of this section.

(Added Pub. L. 92-540, title V, § 503(a), Oct. 24, 1972, 86 Stat. 1097, and amended Pub. L. 93-508, title IV, § 402, Dec. 3, 1974, 88 Stat. 1593; Pub. L. 94-502, title VI, §§ 605, 607(2), Oct. 15, 1976, 90 Stat. 2405.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), means the date of enactment of Pub. L. 92-540, which was approved Oct. 24, 1972.

PRIOR PROVISIONS

A prior section 2012 was renumbered section 2003 by Pub. L. 87-675, § 1(a), Sept. 19, 1962, 76 Stat. 558.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-502, § 607(2), substituted "the contractor's" for "his".

Subsec. (c). Pub. L. 94-502, § 605, added subsec. (c).

1974—Subsec. (a). Pub. L. 93-508, § 402(1), (2), substituted "Any contract in the amount of $10,000 or more entered into" for "Any contract entered into", "the party contracting with the United States shall take affirmative action to employ and advance in employment" for "in employing persons to carry out such contract, the party contracting with the United States shall give special emphasis to the employment of", and "In addition to requiring affirmative action to employ such veterans under such contracts and subcontracts and in order to promote the implementation of such requirement, the President shall" for "The President shall".

Subsec. (b). Pub. L. 93-508, § 402(3), substituted "relating to the employment of veterans" for "relating to giving special emphasis in employment to veterans".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

EFFECTIVE DATE

Section effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92-540, set out as an Effective Date of 1972 Amendment note under section 2001 of this title.

EX. ORD. NO. 11701. EMPLOYMENT OF VETERANS BY FEDERAL AGENCIES AND GOVERNMENT CONTRACTORS AND SUBCONTRACTORS

Ex. Ord. No. 11701, Jan. 24, 1973, 38 F.R. 2675, provided:

On June 16, 1971, I issued Executive Order No. 11598 to facilitate the employment of returning veterans by requiring Federal agencies and Federal contractors and their subcontractors to list employment openings with the employment service systems. Section 503 of the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (Public Law 92-540; 86 Stat. 1097) added a new section 2012 to Title 38 of the United States Code which, in effect, provides statutory authority to extend the program developed under that order with respect to Government contractors and their subcontractors.

NOW, THEREFORE, by virtue of the authority vested in me by section 301 of Title 3 of the United States Code and as President of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of Labor shall issue rules and regulations requiring each department and agency of the executive branch of the Federal Government to list suitable employment openings with the appropriate office of the State Employment Service or the United States Employment Service. This section shall not be construed as requiring the employment of individuals referred by such office or as superseding any requirements of the Civil Service Laws. Rules, regulations, and orders to implement this section shall be developed in consultation with the Civil Service Commission.

SEC. 2. The Secretary of Labor is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority of the President under Section 2012 of Title 38 of the United States Code.

SEC. 3. The Secretary of Labor shall gather information on the effectiveness of the program established under this order and Section 2012 of Title 38 of the United States Code and of the extent to which the employment service system is fulfilling the employment needs of veterans. The Secretary of Labor shall, from time to time, report to the President concerning his evaluation of the effectiveness of this order along with his recommendations for further action which the Secretary believes to be appropriate.

SEC. 4. Appropriate departments and agencies shall, in consultation with the Secretary of Labor, issue such amendments or additions to procurement rules and regulations as may be necessary to carry out the purposes of this order and Section 2012 of Title 38 of the United States Code. Except as otherwise provided by law, all executive departments and agencies are directed to cooperate with the Secretary of Labor, to furnish the Secretary of Labor with such information and assistance as he may require in the performance of his functions under this order, and to comply with rules, regulations, and orders of the Secretary.

SEC. 5. Executive Order No. 11598 of June 16, 1971, is hereby superseded.

RICHARD NIXON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 29 sections 816, 871, 882.

§ 2013. Eligibility requirements for veterans under certain Federal manpower training programs

Any (1) amounts received as pay or allowances by any person while serving on active duty, (2) period of time during which such person served on such active duty, and (3) amounts received under chapters 11, 13, 31, 34, 35, and 36 of this title by a veteran (as defined in section 101(2) of this title) who served on active duty for a period of more than 180 days or was discharged or released from active duty for a service-connected disability, and any amounts received by an eligible person under chapters 13 and 35 of such title, shall be disregarded in determining the needs or qualifications of participants in any public service employment program, any emergency employment program, any job training program assisted under the Economic Opportunity Act of 1964, any manpower training program assisted under the Manpower Development and Training Act of 1962, or any other manpower training (or related) program financed in whole or in part with Federal funds.

(Added Pub. L. 92-540, title V, § 503(a), Oct. 24, 1972, 86 Stat. 1097.)

REFERENCES IN TEXT

The Economic Opportunity Act of 1964, referred to in text, is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended, which is classified generally to chapter 34 (§ 2701 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of Title 42 and Tables volume.

The Manpower Development and Training Act of 1962, referred to in text, is Pub. L. 87-415, Mar. 15, 1962, 76 Stat. 23, as amended, which was classified generally to chapter 30 (§ 2571 et seq.) of Title 42, The Public Health and Welfare. The Act was repealed, effective with respect to fiscal years after June 30, 1974, by section 714, formerly section 614, of Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 883, renumbered by Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845, which is

set out as a "Repeal of Predecessor Programs; Availability of Unexpended Appropriations" note under section 801 of Title 29, Labor. For complete classification of the Act to the Code prior to its repeal, see Tables volume.

PRIOR PROVISIONS

A prior section 2013 was renumbered section 2004 by Pub. L. 87-675, § 1(a), Sept. 19, 1962, 76 Stat. 558.

EFFECTIVE DATE

Section effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92-540, set out as an Effective Date of 1972 Amendment note under section 2001 of this title.

§ 2014. Employment within the Federal Government

(a) It is the policy of the United States and the purpose of this section to promote the maximum of employment and job advancement opportunities within the Federal Government for qualified disabled veterans and veterans of the Vietnam era.

(b) To further this policy, veterans of the Vietnam era shall be eligible, in accordance with regulations which the Civil Service Commission shall prescribe, for veterans readjustment appointments up to and including the level GS-5, as specified in subchapter II of chapter 51 of title 5,[1] and subsequent career-conditional appointments, under the terms and conditions specified in Executive Order Numbered 11521 (March 26, 1970), except that in applying the one-year period of eligibility specified in section 2(a) of such order to a veteran or disabled veteran who enrolls, within one year following separation from the Armed Forces or following release from hospitalization or treatment immediately following separation from the Armed Forces, in a program of education (as defined in section 1652 of this title) on more than a half-time basis (as defined in section 1788 of this title), the time spent in such program of education (including customary periods of vacation and permissible absences) shall not be counted. The eligibility of such a veteran for a readjustment appointment shall continue for not less than six months after such veteran first ceases to be enrolled therein on more than a half-time basis. No veterans readjustment appointment may be made under authority of this subsection after June 30, 1978.

(c) Each department, agency, and instrumentality in the executive branch shall include in its affirmative action plan for the hiring, placement, and advancement of handicapped individuals in such department, agency, or instrumentality as required by section 501(b) of Public Law 93-112 (87 Stat. 391), a separate specification of plans (in accordance with regulations which the Civil Service Commission shall prescribe in consultation with the Administrator, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, consistent with the purposes, provisions, and priorities of such Act) to promote and carry out such affirmative action with respect to disabled veterans in order to achieve the purpose of this section.

(d) The Civil Service Commission shall be responsible for the review and evaluation of the implementation of this section and the activities of each such department, agency, and instrumentality to carry out the purpose and provisions of this section. The Commission shall periodically obtain and publish (on at least a semiannual basis) reports on such implementation and activities from each such department, agency, and instrumentality, including specification of the use and extent of appointments made under subsection (b) of this section and the results of the plans required under subsection (c) thereof.

(e) The Civil Service Commission shall submit to the Congress annually a report on activities carried out under this section, except that, with respect to subsection (c) of this section, the Commission may include a report of such activities separately in the report required to be submitted by section 501(d) of such Public Law 93-112, regarding the employment of handicapped individuals by each department, agency, and instrumentality.

(f) Notwithstanding section 2011 of this title, the terms "veteran" and "disabled veteran" as used in this section shall have the meaning provided for under generally applicable civil service law and regulations.

(Added Pub. L. 93-508, title IV, § 403(a), Dec. 3, 1974, 88 Stat. 1593.)

REFERENCES IN TEXT

Executive Order Numbered 11521 (March 26, 1970), referred to in subsec. (b), is set out as a note under section 3302 of Title 5, Government Organization and Employees.

Section 501(b) of Pub. L. 93-112 (87 Stat. 391), referred to in subsec. (c), is section 791(b) of Title 29, Labor.

"Such Act", referred to in subsec. (c), means Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, popularly known as the Rehabilitation Act of 1973, which is classified principally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables volume.

Section 501(d) of such Pub. L. 93-112, referred to in subsec. (e), is section 791(d) of Title 29.

The civil service law, referred to in subsec. (f), is set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

PRIOR PROVISIONS

A prior section 2014 was renumbered section 2005 by Pub. L. 87-675, § 1(a), Sept. 19, 1962, 76 Stat. 558.

EFFECTIVE DATE

Section effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

[1] So in original. Probably should be "as specified in subchapter III of chapter 53 of title 5".

CHAPTER 43—VETERANS' REEMPLOYMENT RIGHTS

Sec.
2021. Right to reemployment of inducted persons; benefits protected.
2022. Enforcement procedures.
2023. Reemployment by the United States, territory, possession, or the District of Columbia.
2024. Rights of persons who enlist or are called to active duty; Reserves.
2025. Assistance in obtaining reemployment.
2026. Prior rights for reemployment.

PRIOR PROVISIONS

A prior chapter 43 "Mustering-Out Payments", Pub. L. 85-857, Sept. 2, 1950, 72 Stat. 1222, 1223, which consisted of sections 2101 to 2105, was repealed by Pub. L. 89-50, § 1(a), June 24, 1965, 79 Stat. 173.

AMENDMENTS

1974—Pub. L. 93-508, title IV, § 404(a), Dec. 3, 1974, 88 Stat. 1594 added chapter 43 heading and section analysis.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2002A of this title.

§ 2021. Right to reemployment of inducted persons; benefits protected

(a) In the case of any person who is inducted into the Armed Forces of the United States under the Military Selective Service Act (or under any prior or subsequent corresponding law) for training and service and who leaves a position (other than a temporary position) in the employ of any employer in order to perform such training and service, and (1) receives a certificate described in section 9(a) of the Military Selective Service Act (relating to the satisfactory completion of military service), and (2) makes application for reemployment within ninety days after such person is relelved from such training and service or from hospitalization continuing after discharge for a period of not more than one year—

(A) if such position was in the employ of the United States Government, its territories, or possessions, or political subdivisions thereof, or the District of Columbia, such person shall—

(i) if still qualified to perform the duties of such position, be restored to such position or to a position of like seniority, status, and pay; or

(ii) if not qualified to perform the duties of such position, by reason of disability sustained during such service, but qualified to perform the duties of any other position in the employ of the employer, be offered employment and, if such person so requests, be employed in such other position the duties of which such person is qualified to perform as will provide such person like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in such person's case;

(B) if such position was in the employ of a State, or political subdivision thereof, or a private employer, such person shall—

(i) if still qualified to perform the duties of such position, be restored by such employer or the employer's successor in interest to such position or to a position of like seniority, status, and pay; or

(ii) if not qualified to perform the duties of such position by reason of disability sustained during such service, but qualified to perform the duties of any other position in the employ of such employer or the employer's successor in interest, be offered employment and, if such person so requests, be employed by such employer or the employer's successor in interest in such other position the duties of which such person is qualified to perform as will provide such person like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in such person's case,

unless the employer's circumstances have so changed as to make it impossible or unreasonable to do so. Nothing in this chapter shall excuse noncompliance with any statute or ordinance of a State or political subdivision thereof establishing greater or additional rights or protections than the rights and protections established pursuant to this chapter.

(b)(1) Any person who is restored to or employed in a position in accordance with the provisions of clause (A) or (B) of subsection (a) of this section shall be considered as having been on furlough or leave of absence during such person's period of training and service in the Armed Forces, shall be so restored or reemployed without loss of seniority, shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such person was inducted into such forces, and shall not be discharged from such position without cause within one year after such restoration or reemployment.

(2) It is hereby declared to be the sense of the Congress that any person who is restored to or employed in a position in accordance with the provisions of clause (A) or (B) of subsection (a) of this section should be so restored or reemployed in such manner as to give such person such status in the person's employment as the person would have enjoyed if such person had continued in such employment continuously from the time of such person's entering the Armed Forces until the time of such person's restoration to such employment, or reemployment.

(3) Any person who holds a position described in clause (A) or (B) of subsection (a) of this section shall not be denied retention in employment or any promotion or other incident or advantage of employment because of any obligation as a member of a Reserve component of the Armed Forces.

(c) The rights granted by subsections (a) and (b) of this section to persons who left the employ of a State or political subdivision thereof and were inducted into the Armed Forces shall not diminish any rights such persons may have pursuant to any statute or ordinance of such State or political subdivision establishing greater or additional rights or protections.

(Added Pub. L. 93-508, title IV, § 404(a), Dec. 3, 1974, 88 Stat. 1594, and amended Pub. L. 94-502, title VI, § 608(1), (2), Oct. 15, 1976, 90 Stat. 2405.)

REFERENCES IN TEXT

The Military Selective Service Act, referred to in subsec. (a), probably means the Military Selective Service Act of 1967, act June 24, 1948, ch. 625, 62 Stat. 604, as amended by Pub. L. 90-40, § 1(1), June 30, 1967, 81 Stat. 100, which is classified principally to section 451 et seq. of Title 50, App., War and National Defense. Section 9(a) of such Act enacted section 459(a) of Title 50, Appendix. For complete classification of

this Act to the Code, see References in Text note set out under section 451 of Title 50, App., and Tables volume.

AMENDMENTS

1976—Subsec. (a)(2)(B). Pub. L. 94-502, § 608(1), substituted "the employer's" for "his" in three places.

Subsec. (b)(2). Pub. L. 94-502, § 608(2), substituted "in the person's employment as the person" for "in his employment as he".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

EFFECTIVE DATE

Section effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as an Effective Date of 1974 Amendment note under section 1652 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2022 to 2024 of this title.

§ 2022. Enforcement procedures

If any employer, who is a private employer or a State or political subdivision thereof, fails or refuses to comply with the provisions of section 2021(a), (b)(1), or (b)(3), or section 2024, the district court of the United States for any district in which such private employer maintains a place of business, or in which such State or political subdivision thereof exercises authority or carries out its functions, shall have the power, upon the filing of a motion, petition, or other appropriate pleading by the person entitled to the benefits of such provisions, specifically to require such employer to comply with such provisions and to compensate such person for any loss of wages or benefits suffered by reason of such employer's unlawful action. Any such compensation shall be in addition to and shall not be deemed to diminish any of the benefits provided for in such provisions. The court shall order speedy hearing in any such case and shall advance it on the calendar. Upon application to the United States attorney or comparable official for any district in which such private employer maintains a place of business, or in which such State or political subdivision thereof exercises authority or carries out its functions, by any person claiming to be entitled to the benefits provided for in such provisions, such United States attorney or official, if reasonably satisfied that the person so applying is entitled to such benefits, shall appear and act as attorney for such person in the amicable adjustment of the claim or in the filing of any motion, petition, or other appropriate pleading and the prosecution thereof specifically to require such employer to comply with such provisions. No fees or court costs shall be taxed against any person who may apply for such benefits. In any such action only the employer shall be deemed a necessary party respondent. No State statute of limitations shall apply to any proceedings under this chapter.

(Added Pub. L. 93-508, title IV, § 404(a), Dec. 3, 1974, 88 Stat. 1596.)

§ 2023. Reemployment by the United States, territory, possession, or the District of Columbia

(a) Any person who is entitled to be restored to or employed in a position in accordance with the provisions of clause (A) of section 2021(a) and who was employed, immediately before entering the Armed Forces, by any agency in the executive branch of the Government or by any territory or possession, or political subdivision thereof, or by the District of Columbia, shall be so restored or reemployed by such agency or the successor to its functions, or by such territory, possession, political subdivision, or the District of Columbia. In any case in which, upon appeal of any person who was employed, immediately before entering the Armed Forces, by any agency in the executive branch of the Government or by the District of Columbia, the United States Civil Service Commission finds that—

(1) such agency is no longer in existence and its functions have not been transferred to any other agency; or

(2) for any reason it is not feasible for such person to be restored to employment by such agency or by the District of Columbia.[1]

the Commission shall determine whether or not there is a position in any other agency in the executive branch of the Government or in the government of the District of Columbia for which such person is qualified and which is either vacant or held by a person having a temporary appointment thereto. In any case in which the Commission determines that there is such a position, such person shall be offered employment and, if such person so requests, be employed in such position by the agency in which such position exists or by the government of the District of Columbia, as the case may be. The Commission is authorized and directed to issue regulations giving full force and effect to the provisions of this section insofar as they relate to persons entitled to be restored to or employed in positions in the executive branch of the Government or in the government of the District of Columbia, including persons entitled to be reemployed under the last sentence of subsection (b) of this section. The agencies in the executive branch of the Government and the government of the District of Columbia shall comply with such rules, regulations, and orders issued by the Commission pursuant to this subsection. The Commission is authorized and directed whenever it finds, upon appeal of the person concerned, that any agency in the executive branch of the Government or the government of the District of Columbia has failed or refuses to comply with the provisions of this section, to issue an order specifically requiring such agency or the government of the District of Columbia to comply with such provisions and to compensate such person for any loss of salary or wages suffered by reason of failure to comply with such provisions, less any amounts received by such person through other employment, unemployment compensation, or readjustment allowances. Any such compensation ordered to be paid by the

[1] So in original. The period probably should be a semicolon.

Commission shall be in addition to and shall not be deemed to diminish any of the benefits provided for in such provisions, and shall be paid by the head of the agency concerned or by the government of the District of Columbia out of appropriations currently available for salary and expenses of such agency or government, and such appropriations shall be available for such purpose. As used in this chapter, the term "agency in the executive branch of the Government" means any department, independent establishment, agency, or corporation in the executive branch of the United States Government (including the United States Postal Service and the Postal Rate Commission).

(b) Any person who is entitled to be restored to or employed in a position in accordance with the provisions of clause (A) of section 2021(a), and who was employed, immediately before entering the Armed Forces, in the legislative branch of the Government, shall be so restored or employed by the officer who appointed such person to the position which such person held immediately before entering the Armed Forces. In any case in which it is not possible for any such person to be restored to or employed in a position in the legislative branch of the Government and such person is otherwise eligible to acquire a status for transfer to a position in the competitive service in accordance with section 3304(c) of title 5, the United States Civil Service Commission shall, upon appeal of such person, determine whether or not there is a position in the executive branch of the Government for which such person is qualified and which is either vacant or held by a person having a temporary appointment thereto. In any case in which the Commission determines that there is such a position, such person shall be offered employment and, if such person so requests, be employed in such position by the agency in which such position exists.

(c) Any person who is entitled to be restored to or employed in a position in accordance with the provisions of clause (A) of section 2021(a) and who was employed, immediately before entering the Armed Forces, in the judicial branch of the Government, shall be so restored or reemployed by the officer who appointed such person to the position which such person held immediately before entering the Armed Forces.

(Added Pub. L. 93–508, title IV, § 404(a), Dec. 3, 1974, 88 Stat. 1596.)

§ 2024. Rights of persons who enlist or are called to active duty; Reserves

(a) Any person who, after entering the employment on the basis of which such person claims restoration or reemployment, enlists in the Armed Forces of the United States (other than in a Reserve component) shall be entitled upon release from service under honorable conditions to all of the reemployment rights and other benefits provided for by this section in the case of persons inducted under the provisions of the Military Selective Service Act (or prior or subsequent legislation providing for the involuntary induction of persons into the Armed Forces), if the total of such person's service performed between June 24, 1948, and August 1, 1961, did not exceed four years, and the total of any service, additional or otherwise, performed by such person after August 1, 1961, does not exceed five years, and if the service in excess of four years after August 1, 1961, is at the request and for the convenience of the Federal Government (plus in each case any period of additional service imposed pursuant to law).

(b)(1) Any person who, after entering the employment on the basis of which such person claims restoration or reemployment, enters upon active duty (other than for the purpose of determining physical fitness and other than for training), whether or not voluntarily, in the Armed Forces of the United States or the Public Health Service in response to an order or call to active duty shall, upon such person's relief from active duty under honorable conditions, be entitled to all of the reemployment rights and benefits provided for by this chapter in the case of persons inducted under the provisions of the Military Selective Service Act (or prior or subsequent legislation providing for the involuntary induction of persons into the Armed Forces), if the total of such active duty performed between June 24, 1948, and August 1, 1961, did not exceed four years, and the total of any such active duty, additional or otherwise, performed after August 1, 1961, does not exceed four years (plus in each case any additional period in which such person was unable to obtain orders relieving such person from active duty).

(2) Any member of a Reserve component of the Armed Forces of the United States who voluntarily or involuntarily enters upon active duty (other than for the purpose of determining physical fitness and other than for training) or whose active duty is voluntarily or involuntarily extended during a period when the President is authorized to order units of the Ready Reserve or members of a Reserve component to active duty shall have the service limitation governing eligibility for reemployment rights under subsection (b)(1) of this section extended by such member's period of such active duty, but not to exceed that period of active duty to which the President is authorized to order units of the Ready Reserve or members of a Reserve component. With respect to a member who voluntarily enters upon active duty or whose active duty is voluntarily extended, the provisions of this subsection shall apply only when such additional active duty is at the request and for the convenience of the Federal Government.

(c) Any member of a Reserve component of the Armed Forces of the United States who is ordered to an initial period of active duty for training of not less than three consecutive months shall, upon application for reemployment within thirty-one days after (1) such member's release from such active duty for training after satisfactory service, or (2) such member's discharge from hospitalization incident to such active duty for training, or one year after such member's scheduled release from such training, whichever is earlier, be entitled to all reemployment rights and benefits provided by this chapter for persons inducted under the provisions of the Military Selective Service Act (or prior or subsequent legislation providing for the involuntary induction of persons into the Armed Forces), except that (A)

any person restored to or employed in a position in accordance with the provisions of this subsection shall not be discharged from such position without cause within six months after that restoration, and (B) no reemployment rights granted by this subsection shall entitle any person to retention, preference, or displacement rights over any veteran with a superior claim under those provisions of title 5 relating to veterans and other preference eligibles.

(d) Any employee not covered by subsection (c) of this section who holds a position described in clause (A) or (B) of section 2021(a) shall upon request be granted a leave of absence by such person's employer for the period required to perform active duty for training or inactive duty training in the Armed Forces of the United States. Upon such employee's release from a period of such active duty for training or inactive duty training, or upon such employee's discharge from hospitalization incident to that training, such employee shall be permitted to return to such employee's position with such seniority, status, pay, and vacation as such employee would have had if such employee had not been absent for such purposes. Such employee shall report for work at the beginning of the next regularly scheduled working period after expiration of the last calendar day necessary to travel from the place of training to the place of employment following such employee's release, or within a reasonable time thereafter if delayed return is due to factors beyond the employee's control. Failure to report for work at such next regularly scheduled working period shall make the employee subject to the conduct rules of the employer pertaining to explanations and discipline with respect to absence from scheduled work. If such an employee is hospitalized incident to active duty for training or inactive duty training, such employee shall be required to report for work at the beginning of the next regularly scheduled work period after expiration of the time necessary to travel from the place of discharge from hospitalization to the place of employment, or within a reasonable time thereafter if delayed return is due to factors beyond the employee's control, or within one year after such employee's release from active duty for training or inactive duty training, whichever is earlier. If an employee covered by this subsection is not qualified to perform the duties of such employee's position by reason of disability sustained during active duty for training or inactive duty training, but is qualified to perform the duties of any other position in the employ of the employer or such employer's successor in interest, such employee shall be offered employment and, if such person so requests, be employed by that employer or such employer's successor in interest in such other position the duties of which such employee is qualified to perform as will provide such employee like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in such employee's case.

(e) Any employee not covered by subsection (c) of this section who holds a position described in clause (A) or (B) of section 2021(a) shall be considered as having been on leave of absence during the period required to report for the purpose of being inducted into, entering, or determining, by a preinduction or other examination, physical fitness to enter the Armed Forces. Upon such employee's rejection, upon completion of such employee's preinduction or other examination, or upon such employee's discharge from hospitalization incident to such rejection or examination, such employee shall be permitted to return to such employee's position in accordance with the provisions of subsection (d) of this section.

(f) For the purposes of subsections (c) and (d) of this section, full-time training or other full-time duty performed by a member of the National Guard under section 316, 503, 504, or 505 of title 32, is considered active duty for training; and for the purpose of subsection (d) of this section, inactive duty training performed by that member under section 502 of title 32 or section 206, 301, 309, 402, of 1002 of title 37, is considered inactive duty training.

(g) Any member of a Reserve component of the Armed Forces of the United States who is ordered to active duty for not more than 90 days under section 673b of title 10, United States Code, whether or not voluntarily, shall be entitled to all reemployment rights and benefits provided under subsection (c) of this section for persons ordered to an initial period of active duty for training of not less than three consecutive months; and shall have the service limitation governing eligibility for reemployment rights under subsections (a) and (b)(1) of this section extended by his period of such active duty.

(Added Pub. L. 93-508, title IV, § 404(a), Dec. 3, 1974, 88 Stat. 1598, and amended Pub. L. 94-286, § 2, May 14, 1976, 90 Stat. 518; Pub. L. 94-502, title VI, § 608(3), Oct. 15, 1976, 90 Stat. 2405.)

REFERENCES IN TEXT

The Military Selective Service Act, referred to in subsecs. (a), (b), and (c), probably means the Military Selective Service Act of 1967, act June 24, 1948, ch. 625, 62 Stat. 604, as amended by Pub. L. 90-40, § 1(1), June 30, 1967, 81 Stat. 100, which is classified principally to section 451 et seq. of Title 50, App., War and National Defense. For complete classification of this Act to the Code, see References in Text note set out under section 451 of Title 50, App., and Tables volume.

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-502 substituted "such employer's successor in interest" for "his successor in interest" in two places.

Subsec. (g). Pub. L. 94-286 added subsec. (g).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2022 of this title.

§ 2025. Assistance in obtaining reemployment

The Secretary of Labor, through the Office of Veterans' Reemployment Rights, shall render aid in the replacement in their former positions or reemployment of persons who have satisfactorily completed any period of active

duty in the Armed Forces or the Public Health Service. In rendering such aid, the Secretary shall use existing Federal and State agencies engaged in similar or related activities and shall utilize the assistance of volunteers.

(Added Pub. L. 93-508, title IV, § 404(a), Dec. 3, 1974, 88 Stat. 1600.)

§ 2026. Prior rights for reemployment

In any case in which two or more persons who are entitled to be restored to or employed in a position under the provisions of this chapter or of any other law relating to similar reemployment benefits left the same position in order to enter the Armed Forces, the person who left such position first shall have the prior right to be restored thereto or reemployed on the basis thereof, without prejudice to the reemployment rights of the other person or persons to be restored or reemployed.

(Added Pub. L. 93-508, title IV, § 404(a), Dec. 3, 1974, 88 Stat. 1600.)

PRIOR PROVISIONS

A prior section 2101, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1222, 1223, which related to eligibility for mustering-out payments, was repealed by Pub. L. 89-50, § 1(a), June 24, 1965, 79 Stat. 173, eff. July 1, 1966.

A prior section 2102, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1223, which related to the determination of the amount of mustering-out payments, was repealed by Pub. L. 89-50, § 1(a), June 24, 1965, 79 Stat. 173, eff. July 1, 1966.

A prior section 2103, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1223, which related to payment of mustering-out payments to beneficiaries of deceased members, was repealed by Pub. L. 89-50, § 1(a), June 24, 1965, 79 Stat. 173, eff. July 1, 1966.

A prior section 2104, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1223; Pub. L. 89-50, § 2, June 24, 1965, 79 Stat. 173, which related to time limitations, was repealed by Pub. L. 89-50, § 1(a), June 24, 1965, 79 Stat. 173, eff. July 1, 1966.

A prior section 2105, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1224, related to administration of mustering-out payments provisions, was repealed by Pub. L. 89-50, § 1(a), June 24, 1965, 79 Stat. 173, eff. July 1, 1966.

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CHAPTER 51—APPLICATIONS, EFFECTIVE DATES, AND PAYMENTS

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3020.	Payment of benefits by check; delivery.
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3022.	Cancellation of checks mailed to deceased payees.

AMENDMENTS

1976—Pub. L. 94-432, title IV, § 403(1), Sept. 30, 1976, 90 Stat. 1372, added item 3006.

1962—Pub. L. 87-825, § 5(b), Oct. 15, 1962, 76 Stat. 950, eliminated items 3004 and 3011.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 415 of this title.

SUBCHAPTER I—APPLICATIONS

§ 3001. Claims and forms

(a) A specific claim in the form prescribed by the Administrator (or jointly with the Secretary of Health, Education, and Welfare, as prescribed by section 3005 of this title) must be filed in order for benefits to be paid or furnished to any individual under the laws administered by the Veterans' Administration.

(b)(1) A claim by a widow or child for compensation or dependency and indemnity compensation shall also be considered to be a claim for death pension and accrued benefits, and a claim by a widow or child for death pension shall be considered to be a claim for death compensation (or dependency and indemnity compensation) and accrued benefits.

(2) A claim by a parent for compensation or dependency and indemnity compensation shall also be considered to be a claim for accrued benefits.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1225.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3010 of this title.

§ 3002. Application forms furnished upon request

Upon request made in person or in writing by any person claiming or applying for benefits under the laws administered by the Veterans' Administration, the Administrator shall furnish such person, free of all expense, all such printed instructions and forms as may be necessary in establishing such claim.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1225.)

§ 3003. Incomplete applications

(a) If a claimant's application for benefits under the laws administered by the Veterans' Administration is incomplete, the Administrator shall notify the claimant of the evidence necessary to complete the application. If such evidence is not received within one year from the date of such notification, no benefits may be paid or furnished by reason of such application.

(b) This section shall not apply to any application or claim for Government life insurance benefits.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1225.)

[§ 3004. Repealed. Pub. L. 87-825, § 5(a), Oct. 15, 1962, 76 Stat. 950]

Section, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1225, related to the reopening of disallowed claims and to the effective date of any subsequent awards.

EFFECTIVE DATE OF REPEAL

Repeal of section by Pub. L. 87-825 effective on the first day of the second calendar month which begins after Oct. 15, 1962, see section 7 of Pub. L. 87-825, set out as an Effective Date of 1962 Amendment note under section 110 of this title.

§ 3005. Joint applications for social security and dependency and indemnity compensation

The Administrator and the Secretary of Health, Education, and Welfare shall jointly prescribe forms for use by survivors of members and former members of the uniformed services in filing application for benefits under chapter 13 of this title and subchapter II of chapter 7 of title 42. Each such form shall request information sufficient to constitute an application for benefits under both chapter 13 of this title and subchapter II of chapter 7 of title 42; and when an application on such form has been filed with either the Administrator or the Secretary of Health, Education, and Welfare, it shall be deemed to be an application for benefits under both chapter 13 of this title and subchapter II of chapter 7 of title 42. A copy of each such application filed with the Administrator, together with any additional information and supporting documents (or certifications thereof) which may have been received by the Administrator with such application, and which may be needed by the Secretary in connection therewith, shall be transmitted by the Administrator to the Secretary; and a copy of each such application filed with the Secretary, together with any additional information and supporting documents (or certifications thereof) which may have been received by the Secretary with such form, and which may be needed by the Administrator in connection therewith, shall be transmitted by the Secretary to the Administrator. The preceding sentence shall not prevent the Secretary and the Administrator from requesting the applicant, or any other individual, to furnish such additional information as may be necessary for purposes of chapter 13 of this title and subchapter II of chapter 7 of title 42, respectively.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1226.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3001 of this title; title 42 section 402.

§ 3006. Furnishing of information by other agencies

The head of any Federal department or agency shall provide such information to the Administrator as he may request for purposes of determining eligibility for or amount of benefits, or verifying other information with respect thereto.

(Added Pub. L. 94-432, title IV, § 403(2), Sept. 30, 1976, 90 Stat. 1372.)

EFFECTIVE DATE

Section effective Sept. 30, 1976, see section 405(a) of Pub. L. 94-432, set out as an Effective Date of 1976 Amendment note under section 521 of this title.

SUBCHAPTER II—EFFECTIVE DATES

§ 3010. Effective dates of awards

(a) Unless specifically provided otherwise in this chapter, the effective date of an award based on an original claim, a claim reopened after final adjudication, or a claim for increase, of compensation, dependency and indemnity compensation, or pension, shall be fixed in accordance with the facts found, but shall not be earlier than the date of receipt of application therefor.

(b)(1) The effective date of an award of disability compensation to a veteran shall be the day following the date of his discharge or release if application therefor is received within one year from such date of discharge or release.

(2) The effective date of an award of increased compensation shall be the earliest date as of which it is ascertainable that an increase in disability had occurred, if application is received within one year from such date.

(3) The effective date of an award of disability pension to a veteran shall be the date of application or the date on which the veteran became permanently and totally disabled, if an application therefor is received within one year from such date, whichever is to the advantage of the veteran.

(c) The effective date of an award of disability compensation by reason of section 351 of this title shall be the date such injury or aggravation was suffered if an application therefor is received within one year from such date.

(d) The effective date of an award of death compensation, dependency and indemnity compensation, or death pension, where application is received within one year from the date of death, shall be the first day of the month in which the death occurred.

(e) The effective date of an award of dependency and indemnity compensation to a child shall be the first day of the month in which the child's entitlement arose if application therefor is received within one year from such date.

(f) An award of additional compensation on account of dependents based on the establishment of a disability rating in the percentage evaluation specified by law for the purpose shall be payable from the effective date of such rating; but only if proof of dependents is received within one year from the date of notification of such rating action.

(g) Subject to the provisions of section 3001 of this title, where compensation, dependency and indemnity compensation, or pension is awarded or increased pursuant to any Act or administrative issue, the effective date of such award or increase shall be fixed in accordance with the facts found but shall not be earlier than the effective date of the Act or administrative issue. In no event shall such award or increase be retroactive for more than one year from the date of application therefor or the

date of administrative determination of entitlement, whichever is earlier.

(h) Where an award of pension has been deferred or pension has been awarded at a rate based on anticipated income for a year and the claimant later establishes that income for that year was at a rate warranting entitlement or increased entitlement, the effective date of such entitlement or increase shall be fixed in accordance with the facts found if satisfactory evidence is received before the expiration of the next calendar year.

(i) Whenever any disallowed claim is reopened and thereafter allowed on the basis of new and material evidence resulting from the correction of the military records of the proper service department under section 1552 of title 10, or the change, correction, or modification of a discharge or dismissal under section 1553 of title 10, or from other corrective action by competent authority, the effective date of commencement of the benefits so awarded shall be the date on which an application was filed for correction of the military record or for the change, modification, or correction of a discharge or dismissal, as the case may be, or the date such disallowed claim was filed, whichever date is the later, but in no event shall such award of benefits be retroactive for more than one year from the date of reopening of such disallowed claim. This subsection shall not apply to any application or claim for Government life insurance benefits.

(j) Where a report or a finding of death of any person in the active military, naval, or air service has been made by the Secretary concerned, the effective date of an award of death compensation, dependency and indemnity compensation, or death pension, as applicable, shall be the first day of the month fixed by the Secretary as the month of death in such report or finding, if application therefor is received within one year from the date such report or finding has been made; however, such benefits shall not be payable to any person for any period for which such person has received, or was entitled to receive an allowance, allotment, or service pay of the deceased.

(k) The effective date of the award of benefits to a widow or of an award or increase of benefits based on recognition of a child, upon annulment of a marriage shall be the date the judicial decree of annulment becomes final if a claim therefor is filed within one year from the date the judicial decree of annulment becomes final; in all other cases the effective date shall be the date the claim is filed.

(*l*) The effective date of an award of benefits to a widow based upon a termination of a remarriage by death or divorce, or of an award or increase of benefits based on recognition of a child upon termination of the child's marriage by death or divorce, shall be the date of death or the date the judicial decree or divorce becomes final, if an application therefor is received within one year from such termination.

(m) The effective date of an award of benefits to a widow based upon termination of actions described in subsection 103(d)(3) of this title shall not be earlier than the date of receipt of application therefor filed after termination of such actions and after December 31, 1970.

(n) The effective date of the award of any benefit or any increase therein by reason of marriage or the birth or adoption of a child shall be the date of such event if proof of such event is received by the Veterans' Administration within one year from the date of the marriage, birth, or adoption.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1227; Pub. L. 87-674, § 3, Sept. 19, 1962, 76 Stat. 558; Pub. L. 87-825, § 1, Oct. 15, 1962, 76 Stat. 948; Pub. L. 91-376, § 7, Aug. 12, 1970, 84 Stat. 790; Pub. L. 91-584, § 13, Dec. 24, 1970, 84 Stat. 1577; Pub. L. 93-177, § 6(a), Dec. 6, 1973, 87 Stat. 696; Pub. L. 93-527, § 9(b), Dec. 21, 1974, 88 Stat. 1705; Pub. L. 94-71, title I, § 104, Aug. 5, 1975, 89 Stat. 396.)

AMENDMENTS

1975—Subsec. (b)(2). Pub. L. 94-71, § 104(2), added subsec. (b)(2). Former subsec. (b)(2) was redesignated (b)(3).

Subsec. (b)(3). Pub. L. 94-71, § 104(1), redesignated former subsec. (b)(2) as (b)(3).

1974—Subsec. (*l*). Pub. L. 93-527 added the provisions relating to an award or increase of benefits based on recognition of a child upon termination of the child's marriage by death or divorce.

1973—Subsec. (b). Pub. L. 93-177 designated existing provisions as par. (1) and added par. (2).

1970—Subsecs. (*l*), (m). Pub. L. 91-376 added subsecs. (*l*) and (m).

Subsec. (n). Pub. L. 91-584 added subsec. (n).

1962—Subsec. (a). Pub. L. 87-825 inserted "based on an original claim, a claim reopened after final adjudication, or a claim for increase".

Subsec. (c). Pub. L. 87-825 added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 87-825 redesignated former subsec. (c) as (d) and substituted the first day of the month in which the death occurred, for the day after the day of death, as the effective date. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 87-825 redesignated former subsec. (d) as (e), substituted "first day of the month" for "date", and eliminated "the entitlement arose" following "from such date." Former subsec. (e) redesignated (j).

Subsec. (f). Pub. L. 87-825 added subsec. (f). A prior subsec. (f) added by Pub. L. 87-674 was redesignated (k) by Pub. L. 87-825.

Subsecs. (g) to (i). Pub. L. 87-825 added subsecs. (g) to (i).

Subsec. (j). Pub. L. 87-825 redesignated former subsec. (e) as (j), and substituted "first day of the month" for "day after the date", and "month of death" for "date of death".

Subsec. (k). Pub. L. 87-825 redesignated former subsec. (f) added by Pub. L. 87-674 as (k).

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-71 effective Aug. 1, 1975, see section 301 of Pub. L. 94-71, set out as an Effective Date of 1975 Amendment note under section 314 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-527 effective Jan. 1, 1975, see section 10 of Pub. L. 93-527, set out as an Effective Date of 1974 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 6(b) of Pub. L. 93-177 provided that: "Subsection (a) of this section [enacting subsec. (b)(2) of this section] shall apply to applications filed after its effective date [Jan. 1, 1974], but in no event shall an award made thereunder be effective prior to such effective date [Jan. 1, 1974]."

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-376 effective Jan. 1, 1971, see section 9 of Pub. L. 91-376, set out as an Effective Date of 1970 Amendment note under section 314 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-825 effective on the first day of the second calendar month which begins after Oct. 15, 1962, see section 7 of Pub. L. 87-825, set out as an Effective Date of 1962 Amendment note under section 110 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3110, 3503 of this title.

[§ 3011. Repealed. Pub. L. 87-825, § 5(a), Oct. 15, 1962, 76 Stat. 950]

Section, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1227; Pub. L. 86-490, June 8, 1960, 74 Stat. 161, related to the effective date of an award of increased compensation, dependency and indemnity compensation, or pension.

EFFECTIVE DATE OF REPEAL

Repeal of section by Pub. L. 87-825 effective on the first day of the second calendar month which begins after Oct. 15, 1962, see section 7 of Pub. L. 87-825, set out as an Effective Date of 1962 Amendment note under section 110 of this title.

§ 3012. Effective dates of reductions and discontinuances

(a) Except as otherwise specified in this section, the effective date of reduction or discontinuance of compensation, dependency and indemnity compensation, or pension shall be fixed in accordance with the facts found.

(b) The effective date of a reduction or discontinuance of compensation, dependency and indemnity compensation, or pension—

(1) by reason of marriage or remarriage, or death of a payee shall be the last day of the month before such marriage, remarriage, or death occurs;

(2) by reason of marriage, annulment, divorce, or death of a dependent of a payee shall be the last day of the calendar year in which such marriage, annulment, divorce, or death occurs;

(3) by reason of receipt of active service pay or retirement pay shall be the day before the date such pay began;

(4) by reason of change in income or corpus of estate shall be the last day of the calendar year in which the change occurred;

(5) by reason of a change in disability or employability of a veteran in receipt of pension shall be the last day of the month in which discontinuance of the award is approved;

(6) by reason of change in law or administrative issue, change in interpretation of a law or administrative issue, or, for compensation purposes, a change in service-connected or employability status or change in physical condition shall be the last day of the month following sixty days from the date of notice to the payee (at his last address of record) of the reduction or discontinuance;

(7) by reason of the discontinuance of school attendance of a payee or a dependent of a payee shall be the last day of the month in which such discontinuance occurred;

(8) by reason of termination of a temporary increase in compensation for hospitalization or treatment shall be the last day of the month in which the hospital discharge or termination of treatment occurred, whichever is earlier;

(9) by reason of an erroneous award based on an act of commission or omission by the beneficiary, or with the beneficiary's knowledge, shall be the effective date of the award; and

(10) by reason of an erroneous award based solely on administrative error or error in judgment shall be the date of last payment.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1227; Pub. L. 87-825, § 2, Oct. 15, 1962, 76 Stat. 949; Pub. L. 89-730, § 3, Nov. 2, 1966, 80 Stat. 1159; Pub. L. 90-275, § 5, Mar. 28, 1968, 82 Stat. 68; Pub. L. 92-198, § 3, Dec. 15, 1971, 85 Stat. 664; Pub. L. 94-433, title IV, § 402, Sept. 30, 1976, 90 Stat. 1378.)

AMENDMENTS

1976—Subsec. (b)(2). Pub. L. 94-433, § 402(1), inserted reference to "annulment," before "divorce" in two instances.

Subsec. (b)(9). Pub. L. 94-433, § 402(2), substituted "the beneficiary's" for "his" preceding "knowledge".

1971—Subsec. (b)(2). Pub. L. 92-198 substituted "last day of the calendar year" for "last day of the month".

1968—Subsec. (b)(4). Pub. L. 90-275 eliminated exception which provided that where change in income is due to an increase in payments under a public or private retirement plan the effective date of the resulting reduction or discontinuance shall be the last day of the calendar year in which the change occurred.

1966—Subsec. (b)(4). Pub. L. 89-730 provided for exception that where change in income is due to an increase in payments under a public or private retirement plan the effective date of the resulting reduction or discontinuance shall be the last day of the calendar year in which the change occurred.

1962—Subsec. (b). Pub. L. 87-825 redesignated former subsec. (c) as (b), amended such subsec. generally, and among other changes, added provisions relating to the marriage, divorce, or death of a dependent of a payee, the change in income or corpus of an estate, the change in disability or employability of a veteran, the change in law or administrative issue of service-connected or employability status or physical condition, the discontinuance of school attendance, the termination of a temporary increase in compensation for hospitalization or treatment, an erroneous award based on an act or omission of the beneficiary or with his knowledge, and an erroneous award based solely on administrative error or error in judgment, changed the effective date by reason of death, or by reason of marriage or remarriage, from the date of death, or the day before the date of marriage or remarriage, respectively, to the last day of the month before such death, marriage or remarriage occurs, and eliminated provisions relating to attaining age 18 or 21, as applicable, and to fraud on the part of the beneficiary or with his knowledge. Former subsec. (b), which related to the effective date of a reduction or discontinuance in rates, of a compensation, dependency and indemnity compensation, or a pension award, was eliminated.

Subsec. (c). Pub. L. 87-825 redesignated former subsec. (c) as (b).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as an Effec-

tive Date of 1976 Amendment note under section 301 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92-198 effective Jan. 1, 1972, see section 6 of Pub. L. 92-198, set out as an Effective Date of 1971 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-275 effective on first day of first calendar month following month of initial payment of increases in monthly insurance benefits provided by Social Security Amendments of 1967, see section 6(b) of Pub. L. 90-275, set out as an Effective Date of 1968 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-730 to take effect on the first day of the second calendar month following the date of enactment of Pub. L. 89-730, which was approved Nov. 2, 1966, see section 7(a) of Pub. L. 89-730, set out as an Effective Date of 1966 Amendment note under section 415 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-825 effective on the first day of the second calendar month which begins after Oct. 15, 1962, see section 7 of Pub. L. 87-825, set out as an Effective Date of 1962 Amendment note under section 110 of this title.

§ 3013. Effective dates of educational benefits

Effective dates relating to awards under chapters 31, 34, and 35 of this title shall, to the extent feasible, correspond to effective dates relating to awards of disability compensation.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1227; Pub. L. 89-358, § 4(p), Mar. 3, 1966, 80 Stat. 25.)

AMENDMENTS

1966—Pub. L. 89-358 substituted "34" for "33".

SUBCHAPTER III—PAYMENT OF BENEFITS

§ 3020. Payment of benefits by check; delivery

(a) Monetary benefits under laws administered by the Veterans' Administration shall be paid by checks drawn, pursuant to certification by the Administrator, in such form as to protect the United States against loss, and payable by the Treasurer of the United States. Such checks shall be payable without separate vouchers or receipts except in any case in which the Administrator may consider a voucher necessary for the protection of the Government. Such checks shall be transmitted by mail to the payee thereof at his last known address and, if he has moved and filed a regular change of address notice with the Post Office Department, shall be forwarded to him. The envelope or cover of each such checks shall bear on the face thereof the following notice: "POSTMASTER: PLEASE FORWARD if addressee has moved and filed a regular change-of-address notice. If addressee is deceased, return the letter with date of death, if known."

(b) Postmasters, delivery clerks, letter carriers, and all other postal employees are prohibited from delivering any mail addressed by the United States and containing any such check to any person whomsoever if he has died or in the case of a widow, if the postal employee believes that she has remarried (unless the mail is addressed to her in the name she has acquired by her remarriage). The preceding sentence shall apply in the case of checks in payment of benefits other than pension, compensation, dependency and indemnity compensation, and insurance, only insofar as the Administrator deems it necessary to protect the United States against loss.

(c) Whenever mail is not delivered because of the prohibition of subsection (b), such mail shall be returned forthwith by the postmaster with a statement of the reason for so doing, and if because of death or remarriage, the date thereof, if known. Checks returned under this subsection because of death or remarriage shall be canceled.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1227.)

CHANGE OF NAME

References to the Post Office Department the United States Postal Service, see Pub. L. 91-375, § 6(c), Aug. 12, 1970, 84 Stat. 783, set out as a note preceding section 101 of Title 39, Postal Service.

§ 3021. Payment of certain accrued benefits upon death of a beneficiary

(a) Except as provided in sections 123-128 of title 31, periodic monetary benefits (other than insurance and servicemen's indemnity) under laws administered by the Veterans' Administration to which an individual was entitled at his death under existing ratings or decisions, or those based on evidence in the file at date of death (hereafter in this section and section 3022 of this title referred to as "accrued benefits") and due and unpaid for a period not to exceed one year, shall, upon the death of such individual be paid as follows:

(1) Upon the death of a person receiving an apportioned share of benefits payable to a veteran, all or any part of such benefits to the veteran or to any other dependent or dependents of the veteran, as may be determined by the Administrator;

(2) Upon the death of a veteran, to the living person first listed below:

(A) His spouse;

(B) His children (in equal shares);

(C) His dependent parents (in equal shares);

(3) Upon the death of a widow or remarried widow, to the children of the deceased veteran;

(4) Upon the death of a child, to the surviving children of the veteran who are entitled to death compensation, dependency and indemnity compensation, or death pension; and

(5) In all other cases, only so much of the accrued benefits may be paid as may be necessary to reimburse the person who bore the expense of last sickness and burial.

(b) No part of any accrued benefits shall be used to reimburse any political subdivision of the United States for expenses incurred in the last sickness or burial of any beneficiary.

(c) Applications for accrued benefits must be filed within one year after the date of death. If a claimant's application is incomplete at the time it is originally submitted, the Administra-

tor shall notify the claimant of the evidence necessary to complete the application. If such evidence is not received within one year from the date of such notification, no accrued benefits may be paid.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1228; Pub. L. 92-328, title I, § 105(b), June 30, 1972, 86 Stat. 395.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-328 struck out reference to section 3203(a)(2)(A) of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-328 effective on the first day of the second calendar month which begins after June 30, 1972, see section 301(a) of Pub. L. 92-328, set out as an Effective Date of 1972 Amendment note under section 314 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is refered to in section 3022 of this title.

§ 3022. Cancellation of checks mailed to deceased payees

A check received by a payee in payment of accrued benefits shall, if the payee died on or after the last day of the period covered by the check, be returned to the issuing office and canceled, unless negotiated by the payee or the duly appointed representative of his estate. The amount represented by such check, or any amount recovered by reason of improper negotiation of any such check, shall be payable in the manner provided in section 3021 of this title, without regard to section 3021(c) of this title. Any amount not paid in the manner provided in section 3021 of this title shall be paid upon settlement by the General Accounting Office to the estate of the deceased payee unless the estate will escheat.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1229.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3021 of this title.

CHAPTER 53—SPECIAL PROVISIONS RELATING TO BENEFITS

Sec.
3101. Nonassignability and exempt status of benefits.
3102. Waiver of recovery of claims by the United States.
3103. Certain bars to benefits.
3104. Prohibition against duplication of benefits.
3105. Waiver of retired pay.
3106. Renouncement of right to benefits.
3107. Apportionment of benefits.
3108. Withholding benefits of persons in territory of the enemy.
3109. Payment of certain withheld benefits.
3110. Payment of benefits for month of death.
3111. Prohibition of certain benefit payments.

AMENDMENTS

1972—Pub. L. 92-328, title II, § 203, June 30, 1972, 86 Stat. 397, substituted "claims by the United States" for "overpayments" in item 3102.

1970—Pub. L. 91-376, § 8(c), Aug. 12, 1970, 84 Stat. 790, added item 3111.

1962—Pub. L. 87-825, § 4(b), Oct. 15, 1962, 76 Stat. 950, added item 3110.

§ 3101. Nonassignability and exempt status of benefits

(a) Payments of benefits due or to become due under any law administered by the Veterans' Administration shall not be assignable except to the extent specifically authorized by law, and such payments made to, or on account of, a beneficiary shall be exempt from taxation, shall be exempt from the claim of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary. The preceding sentence shall not apply to claims of the United States arising under such laws nor shall the exemption therein contained as to taxation extend to any property purchased in part or wholly out of such payments. The provisions of this section shall not be construed to prohibit the assignment of insurance otherwise authorized under chapter 19 of this title, or of servicemen's indemnity. For the purposes of this subsection, in any case where a payee of an educational assistance allowance has designated the address of an attorney-in-fact as the payee's address for the purpose of receiving his or her benefit check and has also executed a power of attorney giving the attorney-in-fact authority to negotiate such benefit check, such action shall be deemed to be an assignment and is prohibited.

(b) This section shall prohibit the collection by setoff or otherwise out of any benefits payable pursuant to any law administered by the Veterans' Administration and relating to veterans, their estates, or their dependents, of any claim of the United States or any agency thereof against (1) any person other than the indebted beneficiary or his estate; or (2) any beneficiary or his estate except amounts due the United States by such beneficiary or his estate by reason of overpayments or illegal payments made under such laws to such beneficiary or his estate or to his dependents as such. If the benefits referred to in the preceding sentence are insurance payable by reason of yearly renewable term insurance, United States Government life insurance, or National Service Life Insurance issued by the United States, the exemption provided in this section shall not apply to indebtedness existing against the particular insurance contract upon the maturity of which the claim is based, whether such indebtedness is in the form of liens to secure unpaid premiums or loans, or interest on such premiums or loans, or indebtedness arising from overpayments of dividends, refunds, loans, or other insurance benefits.

(c) Notwithstanding subsection (a), payments of benefits under laws administered by the Veterans' Administration shall not be exempt from levy under subchapter D of chapter 64 of the Internal Revenue Code of 1954 (relating to seizure of property for collection of taxes).

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1229; Pub. L. 94-502, title VII, § 701, Oct. 15, 1976, 90 Stat. 2405.)

REFERENCES IN TEXT

Subchapter D of chapter 64 of the Internal Revenue Code of 1964, referred to in subsec. (c), means subchapter D (§ 6331 et seq.) of chapter 64 of Title 26, Internal Revenue Code.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-502 added provision which prohibits, as an assignment, a payee of an educational assistance allowance from designating an attorney-in-fact's address as the payee's address for the purpose of receiving checks and benefits where the attorney-in-fact has also been given authority to negotiate the checks and benefits.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94-502, set out as an Effective Date of 1976 Amendment note under section 1504 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 708 of this title; title 42 section 417.

§ 3102. Waiver of recovery of claims by the United States

(a) There shall be no recovery of payments or overpayments of any benefits under any of the laws administered by the Veterans' Administration whenever the Administrator determines that recovery would be against equity and good conscience, if an application for relief is made within two years from the date of notification of the indebtedness by the Administrator to the payee.

(b) With respect to any loan guaranteed, insured, or made under chapter 37 of this title, the Administrator may waive payment of an indebtedness to the Veterans' Administration by the veteran (as defined in sections 101 and 1801), or his spouse, following default and loss of the property, where the Administrator determines that collection of such indebtedness would be against equity and good conscience.

(c) The Administrator may not exercise his authority under subsection (a) or (b) of this section to waive recovery of any payment or the collection of any indebtedness if, in his opinion, there exists in connection with the claim for such waiver an indication of fraud, misrepresentation, material fault, or lack of good faith on the part of the person or persons having an interest in obtaining a waiver of such recovery or the collection of such indebtedness.

(d) No certifying or disbursing officer shall be liable for any amount paid to any person where the recovery of such amount is waived under subsection (a) or (b).

(e) Where the recovery of a payment or overpayment made from the National Service Life Insurance Fund or United States Government Life Insurance Fund is waived under this section, the fund from which the payment was made shall be reimbursed from the National Service Life Insurance appropriation or the military and naval insurance appropriation, as applicable.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1230; Pub. L. 92-328, title II, § 202(a), June 30, 1972, 86 Stat. 396.)

AMENDMENTS

1972—Pub. L. 92-328 in the section catchline substituted "claims by the United States" for "overpayments", in subsec. (a) struck out "(except servicemen's indemnity)" following "any benefits", struck out provisions relating to recovery of benefits from any person without fault on his part, and added provisions relating to an application for relief made within two years from the date of notification of the indebtedness by the Administrator to the payee, added subsecs. (b) and (c), redesignated former subsec. (b) as (d), and as so redesignated, added reference to subsec. (b), and redesignated former subsec. (c) as (e).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-328 effective on June 30, 1972, see section 301(c) of Pub. L. 92-328, set out as an Effective Date of 1972 Amendment note under section 210 of this title.

APPLICABILITY OF WAIVER AUTHORITY TO IMPROPER PAYMENTS, OVERPAYMENTS, AND INDEBTEDNESS ESTABLISHED BY THE ADMINISTRATOR PRIOR TO EFFECTIVE DATE OF Pub. L. 92-328

Section 202(b) of Pub. L. 92-328 provided that the waiver authority under subsec. (a) of this section is applicable to improper payments, overpayments, and indebtedness established by the Administrator prior to the effective date of Pub. L. 92-328 if application for relief was pending on June 30, 1972, or such an application was made within two years from June 30, 1972.

For effective date of Pub. L. 92-328, see Effective Date of 1972 Amendment notes set out under sections 210, 314, and 334 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1780, 1817 of this title.

§ 3103. Certain bars to benefits

(a) The discharge or dismissal by reason of the sentence of a general court-martial of any person from the Armed Forces, or the discharge of any such person on the ground that he was a conscientious objector who refused to perform military duty or refused to wear the uniform or otherwise to comply with lawful orders of competent military authority, or as a deserter, or of an officer by the acceptance of his resignation for the good of the service, or (except as provided in subsection (c)) the discharge of any individual during a period of hostilities as an alien, shall bar all rights of such person under laws administered by the Veterans' Administration based upon the period of service from which discharged or dismissed.

(b) Notwithstanding subsection (a), if it is established to the satisfaction of the Administrator that, at the time of the commission of an offense leading to his court-martial, discharge, or resignation, any person was insane, such person shall not be precluded from benefits under laws administered by the Veterans' Administration based upon the period of service from which he was separated.

(c) Subsection (a) shall not apply to any alien whose service was honest and faithful, and who was not discharged on his own application or solicitation as an alien. No individual shall be considered as having been discharged on his own application or solicitation as an alien in the absence of affirmative evidence establishing that he was so discharged.

(d) This section shall not apply to any war-risk insurance, Government (converted) or National Service Life Insurance policy.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1230; Pub. L. 86-113, July 28, 1959, 73 Stat. 262.)

AMENDMENTS

1959—Subsec. (c). Pub. L. 86-113 required affirmative evidence to establish that alien was discharged on his own application or solicitation.

§ 3104. Prohibition against duplication of benefits

(a) Except to the extent that retirement pay is waived under other provisions of law, not more than one award of pension, compensation, emergency officers', regular, or reserve retirement pay, or initial award of naval pension granted after July 13, 1943, shall be made concurrently to any person based on his own service or concurrently to any person based on the service of any other person.

(b)(1) Except as provided in paragraphs (2) and (3), the receipt of pension, compensation, or dependency and indemnity compensation by a widow, child, or parent on account of the death of any person, or receipt by any person of pension or compensation on account of his own service, shall not bar the payment of pension, compensation, or dependency and indemnity compensation on account of the death or disability of any other person.

(2) Benefits other than insurance under laws administered by the Veterans' Administration may not be paid or furnished to or on account of any child by reason of the death of more than one parent in the same parental line; however, the child may elect one or more times to receive benefits by reason of the death of any one of such parents.

(3) Benefits other than insurance under laws administered by the Veterans' Administration may not be paid to any person by reason of the death of more than one person to whom he or she was married; however, the person may elect one or more times to receive benefits by reason of the death of any one spouse.

(c) Pension, compensation, or retirement pay on account of his own service shall not be paid to any person for any period for which he receives active service pay.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1230; Pub. L. 86-495, § 1, June 8, 1960, 74 Stat. 163; Pub. L. 88-664, § 9, Oct. 13, 1964, 78 Stat. 1096; Pub. L. 91-376, § 6, Aug. 12, 1970, 84 Stat. 790.)

AMENDMENTS

1970—Subsec. (b). Pub. L. 91-376 added reference to par. (3) in par. (1), and added par. (3).

1964—Subsec. (a). Pub. L. 88-664 inserted "or concurrently to any person based on the service of any other person" following "own service".

1960—Subsec. (b)(2). Pub. L. 86-495 substituted provisions prohibiting the payment or furnishing of benefits other than insurance to or on account of any child by reason of the death of more than one parent in the same parental line, and permitting the child to elect one or more times to receive benefits by reason of the death of any one of such parents, for provisions which prohibited the payment of dependency and indemnity compensation to or on account of a child by reason of the death of another parent where the child receives or there is paid by the Veterans' Administration on account of a child dependency and indemnity compensation, or death compensation, by reason of the death of a parent.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-376 effective Jan. 1, 1971, see section 9 of Pub. L. 91-376, set out as an Effective Date of 1970 Amendment note under section 314 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-664 effective Jan. 1, 1965, see section 11 of Pub. L. 88-664, set out as an Effective Date of 1964 Amendment note under section 503 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 2 of Pub. L. 86-495 provided that: "The amendment made by this Act [to subsec. (b)(2) of this section] shall apply only to cases where the death of a parent occurs after the date of enactment of this Act [June 8, 1960]."

§ 3105. Waiver of retired pay

Any person who is receiving pay pursuant to any provision of law providing retired or retirement pay to persons in the Armed Forces, or as a commissioned officer of the National Oceanic and Atmospheric Administration or of the Public Health Service, and who would be eligible to receive pension or compensation under the laws administered by the Veterans' Administration if he were not receiving such retired or retirement pay, shall be entitled to receive such pension or compensation upon the filing by such person with the department by which such retired or retirement pay is paid of a waiver of so much of his retired or retirement pay as is equal in amount to such pension or compensation. To prevent duplication of payments, the department with which any such waiver is filed shall notify the Veterans' Administration of the receipt of such waiver, the amount waived, and the effective date of the reduction in retired or retirement pay.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1231; Pub. L. 91-621, § 6(a)(3), Dec. 31, 1970, 84 Stat. 1864.)

AMENDMENTS

1970—Pub. L. 91-621 substituted "National Oceanic and Atmospheric Administration" for "Coast and Geodetic Survey".

§ 3106. Renouncement of right to benefits

(a) Any person entitled to pension, compensation, or dependency and indemnity compensation under any of the laws administered by the Veterans' Administration may renounce his right thereto. The application renouncing the right shall be in writing over the person's signature. Upon the filing of such an application, payment of such benefits and the right thereto shall be terminated, and such person shall be denied any and all rights thereto from such filing.

(b) Renouncement of rights shall not preclude any person from filing a new application for pension, compensation, or dependency and indemnity compensation at a later date, but such new application shall be treated as an original application, and no payments shall be made for any period before the date such new application is filed.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1231.)

§ 3107. Apportionment of benefits

(a) All or any part of the compensation, pension, or emergency officers' retirement pay payable on account of any veteran may—

(1) if the veteran is being furnished hospital treatment, institutional, or domiciliary care by the United States, or any political subdivision thereof, be apportioned on behalf of his wife, children, or dependent parents; and

(2) if the veteran is not living with his wife, or if his children are not in his custody, be apportioned as may be prescribed by the Administrator.

(b) Where any of the children of a deceased veteran are not in the custody of the veteran's widow, the pension, compensation, or dependency and indemnity compensation otherwise payable to the widow may be apportioned as prescribed by the Administrator.

(c) If a veteran is not living with his wife, or if any of his children are not in his custody, any subsistence allowance payable to him under chapter 31 of this title or that portion of the educational assistance allowance payable on account of dependents under chapter 34 of this title may be apportioned as may be prescribed by the Administrator.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1231; Pub. L. 92–540, title V, § 505, Oct. 24, 1972, 86 Stat. 1099.)

Amendments

1972—Subsec. (c). Pub. L. 92-540 added provisions relating to that portion of the educational assistance allowance payable on account of dependents under chapter 34 of this title.

Effective Date of 1972 Amendment

Amendment by Pub. L. 92-540 effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92-540, set out as an Effective Date of 1972 Amendment note under section 2001 of this title.

§ 3108. Withholding benefits of persons in territory of the enemy

(a) When any alien entitled to gratuitous benefits under laws administered by the Veterans' Administration is located in territory of, or under military control of, an enemy of the United States or of any of its allies, any award of such benefits in favor of such alien shall be terminated forthwith.

(b) Any alien whose award is terminated under subsection (a) shall not thereafter be entitled to any such gratuitous benefits except upon the filing of a new claim, accompanied by evidence satisfactory to the Administrator showing that such alien was not guilty of mutiny, treason, sabotage, or rendering assistance to such enemy. Except as provided in section 3109 of this title, such gratuitous benefits shall not be paid for any period before the date the new claim is filed.

(c) While such alien is located in territory of, or under military control of, an enemy of the United States or of any of its allies, the Administrator, in his discretion, may apportion and pay any part of such benefits to the dependents of such alien. No dependent of such alien shall receive benefits by reason of this subsection in excess of the amount to which he would be entitled if such alien were dead.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1231.)

Section Referred to in Other Sections

This section is referred to in section 3109 of this title.

§ 3109. Payment of certain withheld benefits

(a) Any person who, but for section 3108 of this title, was entitled to benefits under any of the laws administered by the Veterans' Administration, whose award of benefits was terminated under such section, or whose benefits were not paid pursuant to sections 123–128 of title 31, and who was not guilty of mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or its allies, shall be paid the full amount of any benefits not paid because of such section 3108, or withheld (including the amount of any checks covered on his account into the Treasury as miscellaneous receipts together with any amount to his credit in the special-deposit account) pursuant to sections 123–128 of title 31. The Administrator shall certify to the Secretary of the Treasury the amounts of payments which, but for this section, would have been made from the special deposit account, and the Secretary of the Treasury, as directed by the Administrator, shall reimburse the appropriations of the Veterans' Administration from such special deposit account, or cover into the Treasury as miscellaneous receipts the amounts so certified.

(b) No payments shall be made for any period before the date claim therefor is filed under this section to any person whose award was terminated, or whose benefits were not paid, before July 1, 1954, because he was a citizen or subject of Germany or Japan residing in Germany or Japan.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1232.)

Section Referred to in Other Sections

This section is referred to in section 3108 of this title.

§ 3110. Payment of benefits for month of death

If, in accordance with the provisions of section 3010(d) of this title, a widow is entitled to death benefits under chapter 11, 13, or 15 of this title for the month in which a veteran's death occurs, the amount of such death benefits for that month shall be not less than the amount of benefits the veteran would have received under chapter 11 or 15 of this title for that month but for his death.

(Added Pub. L. 87–825, § 4(a), Oct. 15, 1962, 76 Stat. 950.)

Effective Date

Section effective on the first day of the second calendar month which begins after Oct. 15, 1962, see section 7 of Pub. L. 87-825, set out as an Effective Date of 1962 Amendment note under section 110 of this title.

§ 3111. Prohibition of certain benefit payments

There shall be no payment of dependency and indemnity compensation, death compensation, or death pension which, because of a widow's relationship with another man before enactment of Public Law 87-674, would not have been payable by the Veterans' Administra-

tion under the standard for determining remarriage applied by that agency before said enactment.

(Added Pub. L. 91-376, § 8(b), Aug. 12, 1970, 84 Stat. 790.)

REFERENCES IN TEXT

Pub. L. 87-674, referred to in the text, is Pub. L. 87-674, Sept. 19, 1962, 76 Stat. 558, which was enacted Sept. 19, 1962, and amended sections 101, 103, and 3010 of this title to provide for the restoration of certain widows and children to the benefit rolls upon annulment of their marriages or remarriages.

CHAPTER 55—MINORS, INCOMPETENTS, AND OTHER WARDS

Sec.
3201. Commitment actions.
3202. Payments to and supervision of guardians.
3203. Hospitalized veterans and estates of incompetent institutionalized veterans.
3204. Administration of trust funds.

§ 3201. Commitment actions

The Administrator may incur necessary court costs and other expenses incident to proceedings for the commitment of mentally incompetent veterans to a Veterans' Administration hospital or domiciliary when necessary for treatment or domiciliary purposes.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1232.)

§ 3202. Payments to and supervision of guardians

(a) Where it appears to the Administrator that the interest of the beneficiary would be served thereby, payment of benefits under any law administered by the Veterans' Administration may be made directly to the beneficiary or to a relative or some other person for the use and benefit of the beneficiary, regardless of any legal disability on the part of the beneficiary. Where, in the opinion of the Administrator, any fiduciary receiving funds on behalf of a Veterans' Administration beneficiary is acting in such a number of cases as to make it impracticable to conserve properly the estates or to supervise the persons of the beneficiaries, the Administrator may refuse to make future payments in such cases as he may deem proper.

(b) Whenever it appears that any guardian, curator, conservator, or other person, in the opinion of the Administrator, is not properly executing or has not properly executed the duties of his trust or has collected or paid, or is attempting to collect or pay, fees, commissions, or allowances that are inequitable or in excess of those allowed by law for the duties performed or expenses incurred, or has failed to make such payments as may be necessary for the benefit of the ward or the dependents of the ward, then the Administrator may appear, by his duly authorized attorney, in the court which has appointed such fiduciary, or in any court having original, concurrent, or appellate jurisdiction over said cause, and make proper presentation of such matters. The Administrator, in his discretion, may suspend payments to any such guardian, curator, conservator, or other person who shall neglect or refuse, after reasonable notice, to render an account to the Administrator from time to time showing the application of such payments for the benefit of such incompetent or minor beneficiary, or who shall neglect or refuse to administer the estate according to law. The Administrator may appear or intervene by his duly authorized attorney in any court as an interested party in any litigation instituted by himself or otherwise, directly affecting money paid to such fiduciary under this section.

(c) Authority is hereby granted for the payment of any court or other expenses incident to any investigation or court proceeding for the appointment of any fiduciary or other person for the purpose of payment of benefits payable under laws administered by the Veterans' Administration or the removal of such fiduciary and appointment of another, and of expenses in connection with the administration of such benefits by such fiduciaries, or in connection with any other court proceeding hereby authorized, when such payment is authorized by the Administrator.

(d) All or any part of any benefits the payment of which is suspended or withheld under this section may, in the discretion of the Administrator, be paid temporarily to the person having custody and control of the incompetent or minor beneficiary, to be used solely for the benefit of such beneficiary, or, in the case of an incompetent veteran, may be apportioned to the dependent or dependents, if any, of such veteran. Any part not so paid and any funds of a mentally incompetent or insane veteran not paid to the chief officer of the institution in which such veteran is an inmate nor apportioned to his dependent or dependents may be ordered held in the Treasury to the credit of such beneficiary. All funds so held shall be disbursed under the order and in the discretion of the Administrator for the benefit of such beneficiary or his dependents. Any balance remaining in such fund to the credit of any beneficiary may be paid to him if he recovers and is found competent, or if a minor, attains majority, or otherwise to his guardian, curator, or conservator, or, in the event of his death, to his personal representative, except as otherwise provided by law; however, payment will not be made to his personal representative if, under the law of his last legal residence, his estate would escheat to the State. In the event of the death of a mentally incompetent or insane veteran, all gratuitous benefits under laws, administered by the Veterans' Administration deposited before or after the date of enactment of this sentence in the personal funds of patients trust fund on account of such veteran shall not be paid to the personal representative of such veteran, but shall be paid to the following persons living at the time of settlement, and in the order named: The surviving spouse, the children (without regard to age or marital status) in equal parts, and the dependent parents of such veteran, in equal parts. If any balance remains, such balance shall be deposited to the credit of the applicable current appropriation; except that there may be paid only so much of such balance as may be necessary to reimburse a person (other than a political subdivision of the United States) who bore the expenses of last sickness or burial of the veteran for such expenses. No payment shall be made under the two preceding sentences of this subsection

unless claim therefor is filed with the Veterans' Administration within five years after the death of the veteran, except that, if any person so entitled under said two sentences is under legal disability at the time of death of the veteran, such five-year period of limitation shall run from the termination or removal of the legal disability.

(e) Any funds in the hands of a fiduciary appointed by a State court or the Veterans' Administration derived from benefits payable under laws administered by the Veterans' Administration, which under the law of the State wherein the beneficiary had his last legal residence would escheat to the State, shall escheat to the United States and shall be returned by such fiduciary, or by the personal representative of the deceased beneficiary, less legal expenses of any administration necessary to determine that an escheat is in order, to the Veterans' Administration, and shall be deposited to the credit of the applicable revolving fund, trust fund, or appropriation.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1232; Pub. L. 86-146, § 1(a), Aug. 7, 1959, 73 Stat. 297; Pub. L. 92-328, title I, § 105(a), June 30, 1972, 86 Stat. 395; Pub. L. 93-295, title III, § 301, May 31, 1974, 88 Stat. 183.)

REFERENCES IN TEXT

Date of enactment of this sentence, referred to in subsec. (d), is the date of enactment of Pub. L. 86-146 which was approved Aug. 7, 1959.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-295, § 301(a), among other changes, substituted provisions authorizing the Administrator, where it appears to him that the interests of the beneficiary would be served thereby, to pay benefits directly to the beneficiary or to a relative or some other person for the use and benefit of the beneficiary, regardless of any legal disability on the part of the beneficiary, for provisions which authorized payments to the guardians, curators, conservators, or persons otherwise legally vested with the care or estate of the minor or of a person mentally incompetent or under other legal disability, and eliminated provisions which permitted payment of benefits direct to the person entitled thereto prior to receipt of notice that such person is under a legal disability adjudged by a court, and which permitted the Administrator to determine the person legally vested with the care of the claimant or his estate where no guardian, curator or conservator has been appointed.

Subsec. (c). Pub. L. 93-295, § 301(b), substituted "fiduciary or other person for the purpose of payment of benefits payable under laws administered by the Veterans' Administration" for "guardian, curator, conservator, or other person legally vested with the care of the claimant or his estate", and "such benefits" for "such estates".

Subsec. (e). Pub. L. 93-295, § 301(c), substituted "hands of a fiduciary appointed by a State court or the Veterans' Administration derived from" for "hands of a guardian, curator, conservator, or person legally vested with the care of the beneficiary or his estate, derived from", and "such fiduciary" for "such guardian, curator, conservator, or person legally vested with the care of the beneficiary or his estate".

Subsecs. (f), (g). Pub. L. 93-295, § 301(d), repealed subsec. (f) which permitted the Administrator, in the case of any incompetent veteran having no guardian, to pay compensation, pension or retirement pay to the wife of such veteran for the use of the veteran and his dependents, and subsec. (g) which permitted payment of death benefits to a widow for herself and child or children, if any, notwithstanding that she may be a minor.

1972—Subsec. (d). Pub. L. 92-328 added provisions relating to filing for death benefit payments.

1959—Subsec. (d). Pub. L. 86-146 provided for payment, upon death of an incompetent veteran, of gratuitous benefits deposited in the personal funds of patients trust fund to surviving spouse, children or parents, for deposit of balance to credit of applicable current appropriation and for reimbursement of expenses of last sickness and burial.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub.L. 93-295 effective on the first day of the second calendar month following May 31, 1974, see section 401 of Pub. L. 93-295, set out as an Effective Date of 1974 Amendment note under section 314 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-328 effective on the first day of the second calendar month which begins after June 30, 1972, see section 301(a) of Pub. L. 92-328, set out as an Effective Date of 1972 Amendment note under section 314 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Section 3 of Pub. L. 86-146 provided that: "The amendments made by this Act [to subsec. (d) of this section and section 3203 of this title] shall take effect as of the first day of the first calendar month which begins more than ninety days after the date of enactment of this Act [Aug. 7, 1959]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701 of this title.

§ 3203. Hospitalized veterans and estates of incompetent institutionalized veterans

(a)(1) Where any veteran having neither wife nor child is being furnished hospital treatment, institutional, or domiciliary care by the Veterans' Administration, no pension in excess of $50 per month shall be paid to or for the veteran for any period after (a) the end of the second full calendar month following the month of admission for treatment or care or (b) readmission for treatment or care within six months following termination of a period of treatment or care of not less than two full calendar months.

(2) The provisions of paragraph (1) shall also apply to a veteran being furnished such care who has a wife but whose pension is payable under section 521(b) of this title. In such a case, the Administrator may apportion and pay to the wife, upon an affirmative showing of hardship, all or any part of the amounts in excess of the amount payable to the veteran while being furnished such care which would be payable to him if pension were payable under section 521(c) of this title.

(b)(1) In any case in which a veteran having neither wife nor child is being furnished hospital treatment, institutional or domiciliary care without charge or otherwise by the United States, or any political subdivision thereof, is rated by the Veterans' Administration in accordance with regulations as being incompetent by reason of mental illness, and his estate from any source equals or exceeds $1,500, further payments of pension, compensation, or emergency officers' retirement pay shall not be made until the estate is reduced to $500. The amount which would be payable but for this

paragraph shall be paid to the veteran in a lump sum; however, no payment of a lump sum herein authorized shall be made to the veteran until after the expiration of six months following a finding of competency and in the event of the veterans' death before payment of such lump sum no part thereof shall be payable.

(2) Where any benefit is discontinued by reason of paragraph (1) of this subsection the Administrator may nevertheless apportion and pay to the dependent parents of the veteran on the basis of need all or any part of the benefit which would otherwise be payable to or for such incompetent veteran. Paragraph (1) of this subsection shall not prevent the payment, out of any remaining amounts discontinued under that paragraph, on account of any veteran of so much of his pension, compensation, or retirement pay as equals the amount charged to the veteran for his current care and maintenance in the institution in which treatment or care is furnished him, but not more than the amount determined by the Administrator to be the proper charge as fixed by any applicable statute or valid administrative regulation.

(3) All or any part of the pension, compensation, or retirement pay payable on account of any incompetent veteran who is being furnished hospital treatment, institutional or domiciliary care may, in the discretion of the Administrator, be paid to the chief officer of the institution wherein the veteran is being furnished such treatment or care, to be properly accounted for by such chief officer and to be used for the benefit of the veteran.

(c) Any veteran subject to the provisions of subsection (b) shall be deemed to be single and without dependents in the absence of satisfactory evidence to the contrary. In no event shall increased compensation, pension, or retirement pay of such veteran be granted for any period more than one year before receipt of satisfactory evidence showing such veteran has a wife, child, or dependent parent.

(d) Notwithstanding any other provision of this section or any other provision of law, no reduction shall be made in the pension of any veteran for any part of the period during which he is furnished hospital treatment, or institutional or domiciliary care, for Hansen's disease, by the United States or any political subdivision thereof.

(e) Where any veteran in receipt of an aid and attendance allowance described in section 314(r) of this title is hospitalized at Government expense, such allowance shall be discontinued from the first day of the second calendar month which begins after the date of his admission for such hospitalization for so long as such hospitalization continues. Any discontinuance required by administrative regulation, during hospitalization of a veteran by the Veterans' Administration, of increased pension based on need of regular aid and attendance or additional compensation based on need of regular aid and attendance as described in subsection (*l*) or (m) of section 314 of this title, shall not be effective earlier than the first day of the second calendar month which begins after the date of the veterans' admission for hospitalization. In case a veteran affected by this subsection leaves a hospital against medical advice and is thereafter admitted to hospitalization within six months from the date of such departure, such allowance, increased pension, or additional compensation, as the case may be, shall be discontinued from the date of such readmission for so long as such hospitalization continues.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1234; Pub. L. 86-146, §§ 1(b), 2, Aug. 7, 1959, 73 Stat. 298; Pub. L. 86-211, § 6, Aug. 29, 1959, 73 Stat. 435; Pub. L. 87-544, § 1, July 25, 1962, 76 Stat. 208; Pub. L. 87-556, § 1, July 27, 1962, 76 Stat. 245; Pub. L. 87-645, § 2(b), Sept. 7, 1962, 76 Stat. 441; Pub. L. 88-450, § 5(a), Aug. 19, 1964, 78 Stat. 504; Pub. L. 89-362, §§ 1, 2, Mar. 7, 1966, 80 Stat. 30; Pub. L. 91-24, § 10, June 11, 1969, 83 Stat. 34; Pub. L. 92-328, title I, § 104, June 30, 1972, 86 Stat. 394; Pub. L. 93-177, § 5, Dec. 6, 1973, 87 Stat. 696.)

AMENDMENTS

1973—Subsec. (a)(1). Pub. L. 93-177 substituted "$50" for "$30".

1972—Subsec. (a). Pub. L. 92-328, § 104(a), (b), struck out subsec. (a), which related to the payment of compensation or retirement pay to veterans being furnished hospital treatment, institutional or domiciliary care by the Veterans' Administration. Former subsec. (d) was redesignated as (a).

Subsec. (b)(1). Pub. L. 92-328, § 104(c), redesignated subsec. (b)(2) as (b)(1), and as so redesignated, added provisions relating to the rating by the Veterans' Administration of a veteran as incompetent by reason of mental illness and provisions relating to the payment of a lump sum to the veteran until after the expiration of six months following the finding of competency of the veteran. Former subsec. (b)(1), which related to the payment of compensation or retirement pay pursuant to the provisions of former subsec. (a) of this section to veterans rated by the Veterans' Administration as incompetent, was struck out.

Subsec. (b)(2). Pub. L. 92-328, § 104(c), (d), redesignated subsec. (b)(3) as (b)(2), and as so redesignated, substituted "(1)" for "(2)" wherever appearing therein. Former subsec. (b)(2) was redesignated as (b)(1).

Subsec. (b)(3). Pub. L. 92-328, § 104(d), redesignated subsec. (b)(4) as (b)(3). Former subsec. (b)(3) was redesignated as (b)(2) and amended.

Subsec. (b)(4). Pub. L. 92-328, § 104(d), redesignated subsec. (b)(4) as (b)(3).

Subsec. (c). Pub. L. 92-328, § 104(e), struck out "(a) or" following "subsection".

Subsec. (d). Pub. L. 92-328, § 104(b), (f), redesignated subsec. (e) as (d), and as so redesignated, struck out ", compensation, or retirement pay" following "pension". Former subsec. (d) was redesignated as (a).

Subsec. (e). Pub. L. 92-328, § 104(f), (g), redesignated subsec. (f) as (e). Former subsec. (e) was redesignated as (d).

Subsec. (f). Pub. L. 92-328, § 104(g), redesignated subsec. (f) as (e).

1969—Subsec. (d)(2). Pub. L. 91-24 substituted "the amount payable to the veteran while being furnished such care which would be payable to him if pension were payable under section 521(c) of this title" for "$30 per month which would be payable to the veteran while being furnished such care if pension were payable to him under section 521(c) of this title".

1966—Subsec. (a)(1). Pub. L. 89-362, § 1, limited the application of the rule requiring immediate reduction of withheld benefits following discharge against medical advice or as a result of disciplinary action to situations where the readmission occurs within 6 months following prior termination of the hospitalization or institutional care.

Subsec. (f). Pub. L. 89-362, § 2, limited the application of the rule requiring discontinuance of aid and attendance allowance upon readmission following depar-

ture from a hospital against medical advice to situations where the readmission occurs within 6 months following prior termination of the hospitalization.

1964—Subsec. (f). Pub. L. 88-450 directed that any discontinuance required by administrative regulation, during hospitalization of a veteran by the Veterans' Administration, of increased pension based on need of regular aid and attendance as described in subsection (*l*) or (m) of section 314 of this title, shall not be effective earlier than the first day of the second calendar month which begins after the date of the veteran's admission for hospitalization, and authorized discontinuance of the increased pension or additional compensation of a veteran upon readmission if he left a hospital against medical advice.

1962—Subsec. (a)(2)(A). Pub. L. 87-544 removed brothers, sisters, and nondependent parents from the permitted class of beneficiaries.

Subsec. (d)(1). Pub. L. 87-556, § 1(1), limited par. (1) to veterans having neither wife nor child.

Subsec. (d)(2). Pub. L. 87-556, § 1(2), substituted provisions making par. (1) applicable to a veteran having a wife but whose pension is payable under section 521(b) of this title, and in such case, authorized the Administrator to pay to the wife, upon an affirmative showing of hardship, all or any part of the amounts in excess of $30 per month payable to the veteran under section 521(c) of this title, for provisions which permitted the Administrator, to pay to the wife or children of a veteran, the balance of the pension he would receive but for par. (1) of this section.

Subsec. (f). Pub. L. 87-645 added subsec. (f).

1959—Subsec. (a)(1). Pub. L. 86-211, § 6(1), eliminated references to pensions.

Subsec. (a)(2)(B). Pub. L. 86-146, § 1(b) inserted "under the last two sentences of section 3202(d) of this title or" before "under this paragraph" in two instances.

Subsec. (b). Pub. L. 86-146, § 2, inserted "to the veteran" and "and in the event of the veterans' death before payment of such lump sum no part thereof shall be payable" in par. (1); substituted "in which such an incompetent veteran having neither wife nor child is being furnished hospital treatment, institutional or domiciliary care without charge or otherwise by the United States, or any political subdivision thereof, and his estate from any source equals or exceeds $1,500, further payments of pension, compensation, or emergency officers' retirement pay" and "paragraph" for "where the estate of such incompetent veteran derived from any source equals or exceeds $1,500, further payments of such benefits (except retired pay, but including emergency officers' retirement pay" and "subsection" and inserted "before payment of such lump sum" in par. (2); to add par. (3); and redesignated as par. (4) former par. (3).

Subsec. (b)(1). Pub. L. 86-211, § 6(1), eliminated a reference to the pension of a veteran.

Subsec. (d). Pub. L. 86-211, § 6(3), added subsec. (d) and redesignated former subsec. (d) as (e).

Subsec. (e). Pub. L. 86-211, § 6(2), redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-177 effective Jan. 1, 1974, see section 8 of Pub. L. 93-177, set out as an Effective Date of 1973 Amendment note under section 521 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-328 effective on the first day of the second calendar month which begins after June 30, 1972, see section 301(a) of Pub. L. 92-328, set out as an Effective Date of 1972 Amendment note under section 314 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 5(b) of Pub. L. 88-450 provided that: "The amendment made by this section [to subsec. (f) of this section] shall apply only with respect to compensation or pension based upon need of regular aid and attendance in the case of veterans admitted for hospitalization on or after the first day of the second calendar month which begins after the date of enactment of this Act [Aug. 19, 1964]."

EFFECTIVE DATE OF 1962 AMENDMENTS

Amendment by Pub. L. 87-645 effective on the first day of the first calendar month which begins after Sept. 7, 1962, see section 4 of Pub. L. 87-645, set out as an Effective Date of 1962 Amendment note under section 312 of this title.

Section 2(b) of Pub. L. 87-556 provided that: "The amendments made by this Act [to this section] shall take effect on the first day of the first calendar month which begins more than thirty days after the date of enactment of this Act [July 27, 1962]."

EFFECTIVE DATE OF 1959 AMENDMENTS

Amendment by Pub. L. 86-211 effective July 1, 1960, see section 10 of Pub. L. 86-211, set out as an Effective Date of 1959 Amendment note under section 521 of this title.

Amendment by Pub. L. 86-146 effective the first day of the first calendar month which begins more than ninety days after Aug. 7, 1959, see section 3 of Pub. L. 86-146, set out as an Effective Date of 1959 Amendment note under section 3202 of this title.

PAYMENT OF LUMP SUM COMPENSATION OR RETIREMENT PAY TO VETERANS WITHHELD PURSUANT TO PROVISIONS IN EFFECT ON THE DAY BEFORE THE EFFECTIVE DATE OF PUB. L. 92-328

Section 106 of Pub. L. 92-328 provided that: "All compensation or retirement pay which is being withheld pursuant to the provisions of subsections (a) and (b)(1) of section 3203, title 38, United States Code, in effect on the day before the effective date of this Act [former subsecs. (a) and (b)(1) of this section], shall be paid to the veteran, if competent, in a lump sum. If the veteran is incompetent, the withheld amounts shall be paid in a lump sum, or successive lump sums, subject to the $1,500 and $500 limitations of subsection (b)(1) of such section 3203 as amended by this Act [subsec. (b)(1) of this section]. If a competent veteran dies before payment is made the withheld amounts shall be paid according to the order of precedence, and subject to the time limitation, of subsection (a)(2) of such section 3203 in effect the day before the effective date of this Act [former subsec. (a)(2) of this section]. In the event of the death of an incompetent veteran before payment of all withheld amounts, no part of the remainder shall be payable."

For effective date of Pub. L. 92-328, see Effective Date of 1972 Amendment notes set out under sections 210, 314, and 334 of this title.

APPLICABILITY OF 1966 AMENDMENTS TO ANY PENSION ELIGIBILITY WHICH IS SUBJECT TO VETERANS' PENSION ACT OF 1959

Section 3 of Pub. L. 89-362 provided that: "The amendments made by this Act [to subsecs. (a)(i) and (f) of this section] shall also apply to cases in which pension eligibility is subject to the provisions of section 9(b) of the Veterans' Pension Act of 1959 [set out as a note under section 521 of this title]."

APPLICABILITY OF 1962 AMENDMENTS TO PERSONS NOT ELECTING PENSION UNDER VETERANS' ACT OF 1959

Section 2(a) of Pub. L. 87-556 provided that: "The amendments made by this Act [to this section] shall not apply to cases in which pension is payable pursuant to sections 9(b) and (c) of the Veterans' Pension Act of 1959 [set out as notes under section 521 of this title]."

Section 2 of Pub. L. 87-544 provided that: "The amendment made by this Act [to this section] shall also apply to cases in which pension eligibility is subject to the provisions of section 9(b) of the Veterans' Pension Act of 1959 [set out as notes under section 521 of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 314 of this title.

§ 3204. Administration of trust funds

All cash balances in the personal funds of patients and the funds due incompetent beneficiaries trust funds administered by the Veterans' Administration, and all moneys received which are properly for deposit into these funds, may be deposited, respectively, into deposit fund accounts with the United States Treasury and such balances and deposits shall thereupon be available for disbursement for properly authorized purposes. When any balances have been on deposit with the Treasurer of the United States for more than one year and represent moneys belonging to individuals whose whereabouts are unknown, they shall be transferred and disposed of as directed in the last proviso of subsection (a) of section 725s of title 31.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1235.)

CHAPTER 57—RECORDS AND INVESTIGATIONS

SUBCHAPTER I—RECORDS

Sec.
3301. Confidential nature of claims.
3302. Furnishing of records.
3303. Certification of records of District of Columbia.
3304. Transcript of trial records.

SUBCHAPTER II—INVESTIGATIONS

3311. Authority to issue subpenas.
3312. Validity of affidavits.
3313. Disobedience to subpena.

SUBCHAPTER I—RECORDS

§ 3301. Confidential nature of claims

(a) All files, records, reports, and other papers and documents pertaining to any claim under any of the laws administered by the Veterans' Administration and the names and addresses of present or former personnel of the armed services, and their dependents, in the possession of the Veterans' Administration shall be confidential and privileged, and no disclosure thereof shall be made except as provided in this section.

(b) The Administrator shall make disclosure of such files, records, reports, and other papers and documents as are described in subsection (a) of this section as follows:

(1) To a claimant or duly authorized agent or representative of a claimant as to matters concerning the claimant alone when, in the judgment of the Administrator, such disclosure would not be injurious to the physical or mental health of the claimant and to an independent medical expert or experts for an advisory opinion pursuant to section 4009 of this title.

(2) When required by process of a United States court to be produced in any suit or proceeding therein pending.

(3) When required by any department or other agency of the United States Government.

(4) In all proceedings in the nature of an inquest into the mental competency of a claimant.

(5) In any suit or other judicial proceeding when in the judgment of the Administrator such disclosure is deemed necessary and proper.

(c) The amount of pension, compensation, or dependency and indemnity compensation of any beneficiary shall be made known to any person who applies for such information, and the Administrator, with the approval of the President, upon determination that the public interest warrants or requires, may, at any time and in any manner, publish any or all information of record pertaining to any claim.

(d) The Administrator as a matter of discretion may authorize an inspection of Veterans' Administration records by duly authorized representatives of recognized organizations.

(e) Except as otherwise specifically provided in this section with respect to certain information, the Administrator may release information, statistics, or reports to individuals or organizations when in the Administrator's judgment such release would serve a useful purpose.

(f) The Administrator may, pursuant to regulations the Administrator shall prescribe, release the names or addresses, or both, of any present or former members of the Armed Forces, and/or their dependents, (1) to any nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under this title, or (2) to any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such agency or instrumentality has made a written request that such names or addresses be provided for a purpose authorized by law. Any organization or member thereof or other person who, knowing that the use of any name or address released by the Administrator pursuant to the preceding sentence is limited to the purpose specified in such sentence, willfully uses such name or address for a purpose other than those so specified, shall be guilty of a misdemeanor and be fined not more than $5,000 in the case of a first offense and not more than $20,000 in the case of any subsequent offense.

(g) Any disclosure made pursuant to this section shall be made in accordance with the provisions of section 552a of title 5.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1236; Pub. L. 87-671, § 2, Sept. 19, 1962, 76 Stat. 557; Pub. L. 91-24, § 11, June 11, 1969, 83 Stat. 34; Pub. L. 92-540, title IV, § 412, Oct. 24, 1972, 86 Stat. 1093; Pub. L. 94-321, § 1(a), June 29, 1976, 90 Stat. 713; Pub. L. 94-581, title II, § 210(b), Oct. 21, 1976, 90 Stat. 2863.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-321, § 1(a)(1), (2), designated the introductory par. as subsec. (a) and as so designated, substituted "provided in this section." for "follows:".

Subsec. (b). Pub. L. 94-321, § 1(a)(2), added subsec. (b). Pars. (1) to (5), formerly set out following the introductory par., are now part of such subsec. (b).

Subsec. (b)(1). Pub. L. 94-581, § 210(b)(1), substituted "claimant or duly authorized agent or representative of a claimant as to matters concerning the claimant alone" for "claimant or his duly authorized agent or representative as to matters concerning himself alone".

Subsec. (c). Pub. L. 94-321, § 1(a)(3), redesignated par. (6) as subsec. (c).

Subsec. (d). Pub. L. 94-581, § 210(b)(2), substituted "as a matter of discretion" for "in his discretion".

Pub. L. 94-321, § 1(a)(3), redesignated par. (7) as subsec. (d).

Subsec. (e). Pub. L. 94-581, § 210(b)(3), substituted "in the Administrator's judgment" for "in his judgment".

Pub. L. 94-321, § 1(a)(3), (4), redesignated par. (8) as subsec. (e), and, as so redesignated, substituted "Except as otherwise specifically provided in this section with respect to certain information, the" for "The".

Subsec. (f). Pub. L. 94-321, § 1(a)(3), (5), redesignated par. (9) as subsec. (f), and, as so redesignated, added provision relating to the release of information pursuant to this subsection to criminal or civil law enforcement governmental agencies and increased the penalty for misuse of such information to the status of a misdemeanor, with a fine of not more than $5,000 for the first offense and not more than $20,000 for any subsequent offense.

Subsec. (g). Pub. L. 94-321, § 1(a)(5), added subsec. (g).

1972—Pub. L. 92-540 in the introductory material added reference to the names and addresses of present or former personnel of the armed forces, and their dependents, in the possession of the Veterans' Administration, and added par. (9).

1969—Par. (1). Pub. L. 91-24 substituted "the claimant and to an independent" for "the claimant. And to an independent".

1962—Pub. L. 87-671 inserted provisions in par. (1) authorizing disclosure to an independent medical expert or experts for an advisory opinion pursuant to section 4009 of this title.

EFFECTIVE DATE OF 1976 AMENDMENTS

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581 set out as an Effective Date of 1976 Amendment note under section 111 of this title.

Section 1(b) of Pub. L. 94-321 provided that: "The amendments made by subsection (a) of this section with respect to subsection (f) (as redesignated by subsection (a)(3) of this section) of section 3301 of title 38, United States Code (except for the increase in criminal penalties for a violation of the second sentence of such subsection (f)), shall be effective with respect to names or addresses released on and after October 24, 1972."

EFFECTIVE DATE OF 1962 AMENDMENT

Section 4 of Pub. L. 87-671 provided that: "The amendments made by this Act [adding section 4009 of this title and amending this section] shall be effective January 1, 1963."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3302, 4005 of this title.

§ 3302. Furnishing of records

Any person desiring a copy of any record, paper, and so forth, in the custody of the Veterans' Administration, which may be disclosed under section 3301 of this title, must make written application therefor to the Veterans' Administration, stating specifically—

(1) the particular record, paper, and so forth, a copy of which is desired and whether certified or uncertified; and

(2) the purpose for which such copy is desired to be used.

(b) The Administrator is authorized to fix a schedule of fees for copies and certification of such records.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1236.)

§ 3303. Certification of records of District of Columbia

When a copy of any public record of the District of Columbia is required by the Veterans' Administration to be used in determining the eligibility of any person for benefits under laws administered by the Veterans' Administration, the official custodian of such public record shall without charge provide the applicant for such benefits or any person (including any veterans' organization) acting on his behalf or the authorized representative of the Veterans' Administration with a certified copy of such record.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1237.)

§ 3304. Transcript of trial records

The Administrator may purchase transcripts of the record, including all evidence, of trial of litigated cases.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1237.)

SUBCHAPTER II—INVESTIGATIONS

§ 3311. Authority to issue subpenas

For the purposes of the laws administered by the Veterans' Administration, the Administrator, and those employees to whom the Administrator may delegate such authority, to the extent of the authority so delegated, shall have the power to issue subpenas for and compel the attendance of witnesses within a radius of one hundred miles from the place of hearing, to require the production of books, papers, documents, and other evidence, to take affidavits, to administer oaths and affirmations, to aid claimants in the preparation and presentation of claims, and to make investigations and examine witnesses upon any matter within the jurisdiction of the Veterans' Administration. Any person required by such subpena to attend as a witness shall be allowed and paid the same fees and mileage as are paid witnesses in the district courts of the United States.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1237.)

§ 3312. Validity of affidavits

Any such oath, affirmation, affidavit, or examination, when certified under the hand of any such employee by whom it was administered or taken and authenticated by the seal of the Veterans' Administration, may be offered or used in any court of the United States and without further proof of the identity or authority of such employee shall have like force and effect as if administered or taken before a clerk of such court.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1237.)

§ 3313. Disobedience to subpena

In case of disobedience to any such subpena, the aid of any district court of the United States may be invoked in requiring the attendance and testimony of witnesses and the production of documentary evidence, and such court within the jurisdiction of which the inquiry is carried on may, in case of contumacy or refusal to obey a subpena issued to any officer, agent, or employee of any corporation or to any

other person, issue an order requiring such corporation or other person to appear or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1237.)

CHAPTER 59—AGENTS AND ATTORNEYS

Sec.
3401. Prohibition against acting as claims agent or attorney.
3402. Recognition of representatives of organizations.
3403. Recognition with respect to particular claims.
3404. Recognition of agents and attorneys generally.
3405. Penalty for certain acts.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 10 sections 1553, 1554.

§ 3401. Prohibition against acting as claims agent or attorney

Except as provided by section 500 of title 5, no individual may act as an agent or attorney in the preparation, presentation, or prosecution of any claim under laws administered by the Veterans' Administration unless he has been recognized for such purposes by the Administrator.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1238; Pub. L. 91-24, § 12(a), June 11, 1969, 83 Stat. 34.)

AMENDMENTS

1969—Pub. L. 91-24 substituted "Except as provided by section 500 of title 5, no individual may act" for "No individual may act".

§ 3402. Recognition of representatives of organizations

(a)(1) The Administrator may recognize representatives of the American National Red Cross, the American Legion, the Disabled American Veterans, the United Spanish War Veterans, the Veterans of Foreign Wars, and such other organizations as he may approve, in the preparation, presentation, and prosecution of claims under laws administered by the Veterans' Administration.

(2) The Administrator may, in his discretion, furnish, if available, space and office facilities for the use of paid full-time representatives of national organizations so recognized.

(b) No individual shall be recognized under this section—

(1) unless he has certified to the Administrator that no fee or compensation of any nature will be charged any individual for services rendered in connection with any claim; and

(2) unless, with respect to each claim, such individual has filed with the Administrator a power of attorney, executed in such manner and form as the Administrator may prescribe.

(c) Service rendered in connection with any such claim, while not on active duty, by any retired officer, warrant officer, or enlisted man of the Armed Forces recognized under this section shall not be a violation of sections 203, 205, 206, or 207 of title 18.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1238; Pub. L. 91-24, § 12(b), June 11, 1969, 83 Stat. 34.)

AMENDMENTS

1969—Subsec. (c). Pub. L. 91-24 substituted "sections 203, 205, 206 or 207 of title 18" for "section 281 or 283 of title 18, or a violation of section 99 of title 5".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 243 of this title; title 10 section 2679.

§ 3403. Recognition with respect to particular claims

The Administrator may recognize any individual for the preparation, presentation, and prosecution of any particular claim for benefits under any of the laws administered by the Veterans' Administration if—

(1) such individual has certified to the Administrator that no fee or compensation of any nature will be charged any individual for services rendered in connection with such claim; and

(2) such individual has filed with the Administrator a power of attorney, executed in such manner and in such form as the Administrator may prescribe.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1238.)

§ 3404. Recognition of agents and attorneys generally

(a) The Administrator may recognize any individual as an agent or attorney for the preparation, presentation, and prosecution of claims under laws administered by the Veterans' Administration. The Administrator may require that individuals, before being recognized under this section, show that they are of good moral character and in good repute, are qualified to render claimants valuable service, and otherwise are competent to assist claimants in presenting claims.

(b) The Administrator, after notice and opportunity for a hearing, may suspend or exclude from further practice before the Veterans' Administration any agent or attorney recognized under this section if he finds that such agent or attorney—

(1) has engaged in any unlawful, unprofessional, or dishonest practice;

(2) has been guilty of disreputable conduct;

(3) is incompetent;

(4) has violated or refused to comply with any of the laws administered by the Veterans' Administration, or with any of the regulations or instructions governing practice before the Veterans' Administration; or

(5) has in any manner deceived, misled, or threatened any actual or prospective claimant.

(c) The Administrator shall determine and pay fees to agents or attorneys recognized under this section in allowed claims for monetary benefits under laws administered by the Veterans' Administration. Such fees—

(1) shall be determined and paid as prescribed by the Administrator;

(2) shall not exceed $10 with respect to any one claim; and

(3) shall be deducted from monetary benefits claimed and allowed.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1238.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3405 of this title.

§ 3405. Penalty for certain acts

Whoever (1) directly or indirectly solicits, contracts for, charges, or receives, or attempts to solicit, contract for, charge, or receive, any fee or compensation except as provided in sections 3404 or 784 of this title, or (2) wrongfully withholds from any claimant or beneficiary any part of a benefit or claim allowed and due him, shall be fined not more than $500 or imprisoned at hard labor for not more than two years, or both.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1239.)

CHAPTER 61—PENAL AND FORFEITURE PROVISIONS

Sec.
3501. Misappropriation by fiduciaries.
3502. Fraudulent acceptance of payments.
3503. Forfeiture for fraud.
3504. Forfeiture for treason.
3505. Forfeiture for subversive activities.

AMENDMENTS

1959—Pub. L. 86-222, § 3(b), Sept. 1, 1959, 73 Stat. 453, added item 3505.

§ 3501. Misappropriation by fiduciaries

(a) Whoever, being a guardian, curator, conservator, committee, or person legally vested with the responsibility or care of a claimant or his estate, or any other person having charge and custody in a fiduciary capacity of money heretofore or hereafter paid under any of the laws administered by the Veterans' Administration for the benefit of any minor, incompetent, or other beneficiary, shall lend, borrow, pledge, hypothecate, use, or exchange for other funds or property, except as authorized by law, or embezzle or in any manner misappropriate any such money or property derived therefrom in whole or in part and coming into his control in any manner whatever in the execution of his trust, or under color of his office or service as such fiduciary, shall be fined not more than $2,000 or imprisoned not more than five years, or both.

(b) Any willful neglect or refusal to make and file proper accountings or reports concerning such money or property as required by law shall be taken to be sufficient evidence prima facie of such embezzlement or misappropriation.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1239.)

§ 3502. Fraudulent acceptance of payments

(a) Any person entitled to monetary benefits under any of the laws administered by the Veterans' Administration whose right to payment thereof ceases upon the happening of any contingency, who thereafter fraudulently accepts any such payment, shall be fined not more than $2,000, or imprisoned not more than one year, or both.

(b) Whoever obtains or receives any money or check under any of the laws administered by the Veterans' Administration without being entitled to it, and with intent to defraud the United States or any beneficiary of the United States, shall be fined not more than $2,000, or imprisoned not more than one year, or both.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1239.)

§ 3503. Forfeiture for fraud

(a) Whoever knowingly makes or causes to be made or conspires, combines, aids, or assists in, agrees to, arranges for, or in any way procures the making or presentation of a false or fraudulent affidavit, declaration, certificate, statement, voucher, or paper, concerning any claim for benefits under any of the laws administered by the Veterans' Administration (except laws pertaining to insurance benefits) shall forfeit all rights, claims, and benefits under all laws administered by the Veterans' Administration (except laws pertaining to insurance benefits).

(b) Whenever a veteran entitled to disability compensation has forfeited his right to such compensation under this section, the compensation payable but for the forfeiture shall thereafter be paid to his wife, children, and parents. Payments made to a wife, children, and parents under the preceding sentence shall not exceed the amounts payable to each if the veteran had died from service-connected disability. No wife, child, or parent who participated in the fraud for which forfeiture was imposed shall receive any payment by reason of this subsection.

(c) Forfeiture of benefits by a veteran shall not prohibit payment of the burial allowance, death compensation, dependency and indemnity compensation, or death pension in the event of his death.

(d)(1) After September 1, 1959, no forfeiture of benefits may be imposed under this section or section 3504 of this title upon any individual who was a resident of, or domiciled in, a State at the time the act or acts occurred on account of which benefits would, but not for this subsection, be forfeited unless such individual ceases to be a resident of, or domiciled in, a State before the expiration of the period during which criminal prosecution could be instituted. This subsection shall not apply with respect to (a) any forfeiture occurring before September 1, 1959, or (b) an act or acts which occurred in the Philippine Islands prior to July 4, 1946.

(2) The Administrator is hereby authorized and directed to review all cases in which, because of a false or fraudulent affidavit, declaration, certificate, statement, voucher, or paper, a forfeiture of gratuitous benefits under laws administered by the Veterans' Administration was imposed, pursuant to this section or prior provisions of law, on or before September 1, 1959. In any such case in which he determines that the forfeiture would not have been imposed under the provisions of this section in effect after September 1, 1959, he shall remit the forfeiture, effective the date of enactment of this amendatory Act. Benefits to which the individual concerned becomes eligible by virtue of any such remission may be awarded, upon application therefor, and the effective date of any award of compensation, dependency and indemnity compensation, or pension made in such a

case shall be fixed in accordance with the provisions of section 3010(g) of this title.

(e) No apportionment award under subsection (b) of this section shall be made in any case after the date of enactment of this subsection.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1240; Pub. L. 86-222, § 1, Sept. 1, 1959, 73 Stat. 452; Pub. L. 91-24, § 13(a), June 11, 1969, 83 Stat. 34; Pub. L. 92-328, title II, § 206, June 30, 1972, 86 Stat. 397.)

REFERENCES IN TEXT

The date of enactment of this amendatory Act, referred to in subsec. (d)(2), means the date of enactment of Pub. L. 92-328, which was approved June 30, 1972.

The date of enactment of this subsection, referred to in subsec. (e), means the date of enactment of Pub. L. 86-222, which was approved Sept. 1, 1959.

AMENDMENTS

1972—Subsec. (d). Pub. L. 92-328 designated existing provisions as par. (1) and added par. (2).

1969—Subsec. (d). Pub. L. 91-24 substituted "September 1, 1959" for "the date of enactment of this subsection" wherever appearing therein.

1959—Subsecs. (d) and (e). Pub. L. 86-222 added subsecs. (d) and (e).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-328 effective on June 30, 1972, see section 301(c) of Pub. L. 92-328, set out as an Effective Date of 1972 Amendment note under section 210 of this title.

§ 3504. Forfeiture for treason

(a) Any person shown by evidence satisfactory to the Administrator be[1] guilty of mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or of its allies shall forfeit all accrued or future gratuitous benefits under laws administered by the Veterans' Administration.

(b) The Administrator, in his discretion, may apportion and pay any part of benefits forfeited under subsection (a) to the dependents of the person forfeiting such benefits. No dependent of any person shall receive benefits by reason of this subsection in excess of the amount to which he would be entitled if such person were dead.

(c) In the case of any forfeiture under this section there shall be no authority after September 1, 1959 (1) to make an apportionment award pursuant to subsection (b) or (2) to make an award to any person of gratuitous benefits based on any period of military, naval, or air service commencing before the date of commission of the offense.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1240; Pub. L. 86-222, § 2, Sept. 1, 1959, 73 Stat. 452; Pub. L. 91-24, § 13(b), June 11, 1969, 83 Stat. 34.)

AMENDMENTS

1969—Subsec. (c). Pub. L. 91-24 substituted "September 1, 1959" for "the date of enactment of this subsection".

1959—Subsec. (c). Pub. L. 86-222 added subsec. (c).

[1] So in original. Probably should be "to be".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3503 of this title.

§ 3505. Forfeiture for subversive activities

(a) Any individual who is convicted after the date of enactment of this section of any offense listed in subsection (b) of this section shall, from and after the date of commission of such offense, have no right to gratuitous benefits (including the right to burial in a national cemetery) under laws administered by the Veterans' Administration based on periods of military, naval, or air service commencing before the date of the commission of such offense and no other person shall be entitled to such benefits on account of such individual. After receipt of notice of the return of an indictment for such an offense the Veterans' Administration shall suspend payment of such gratuitous benefits pending disposition of the criminal proceedings. If any individual whose right to benefits has been terminated pursuant to this section is granted a pardon of the offense by the President of the United States, the right to such benefits shall be restored as of the date of such pardon.

(b) The offenses referred to in subsection (a) of this section are those offenses for which punishment is prescribed (1) in the following provisions of title 18, United States Code: sections 792, 793, 794, 798, 2381, 2382, 2383, 2384, 2385, 2387, 2388, 2389, 2390, and chapter 105; (2) in the Uniform Code of Military Justice, articles 94, 104, and 106; (3) in the following sections of the Atomic Energy Act of 1954; sections 222, 223, 224, 225, and 226; and (4) in section 4 of the Internal Security Act of 1950.

(c) The Attorney General shall notify the Administrator in each case in which an individual is indicted or convicted of an offense listed in clauses (1), (3), or (4) of subsection (b) of this section. The Secretary of Defense or the Secretary of the Treasury, as may be appropriate, shall notify the Administrator in each case in which an individual is convicted of an offense listed in clause (2) of subsection (b) of this section.

(Added Pub. L. 86-222, § 3(a), Sept. 1, 1959, 73 Stat. 453, and amended Pub. L. 92-128, § 2(c), Sept. 25, 1971, 85 Stat. 348; Pub. L. 93-43, § 8, June 18, 1973, 87 Stat. 88.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), means the date of enactment of Pub. L. 86-222, which was approved Sept. 1, 1959.

The Uniform Code of Military Justice, articles 94, 104, and 106, referred to in subsec. (b)(2), means sections 894, 904, and 906 of Title 10, Armed Forces.

Sections 222, 223, 224, 225, and 226 of the Atomic Energy Act of 1954, referred to in subsec. (b)(3), are classified to sections 2272 to 2276 of Title 42, The Public Health and Welfare.

Section 4 of the Internal Security Act of 1950, referred to in subsec. (b)(4), is classified to section 783 of Title 50, War and National Defense.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-43 inserted "(including the right to burial in a national cemetery)" after "gratuitous benefits" in the first sentence.

1971—Subsec. (b)(4). Pub. L. 92-128 substituted "in section 4 of the Internal Security Act of 1950" for "in

the following sections of the Internal Security Act of 1950; sections 4, 112, and 113".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-43 effective June 18, 1973, see section 10(a) of Pub. L. 93-43, set out as an Effective Date note under section 1000 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1002 of this title.

PART V—BOARDS AND DEPARTMENTS

Chap.		Sec.
71.	Board of Veterans' Appeals	4001
73.	Department of Medicine and Surgery	4101
75.	Veterans' Canteen Service	4201

CHAPTER 71—BOARD OF VETERANS' APPEALS

Sec.	
4001.	Composition of Board of Veterans' Appeals.
4002.	Assignment of members of Board.
4003.	Determinations by the Board.
4004.	Jurisdiction of the Board.
4005.	Filing of notice of disagreement and appeal.
4005A.	Simultaneously contested claims.
4006.	Administrative appeals.
4007.	Docketing of appeals.
4008.	Rejection of applications.
4009.	Independent medical opinions.

AMENDMENTS

1962—Pub. L. 87-671, § 3, Sept. 19, 1962, 76 Stat. 557, added item 4009.

Pub. L. 87-666, § 2, Sept. 19, 1962, 76 Stat. 554, added item 4005A, and substituted "Filing of notice of disagreement and appeal" for "Applications for review on appeal" in item 4005, "Administrative appeals" for "Docketing of appeals" in item 4006, and "Docketing of appeals" for "Simultaneously contested claims" in item 4007.

§ 4001. Composition of Board of Veterans' Appeals

(a) There shall be in the Veterans' Administration a Board of Veterans' Appeals (hereafter in this chapter referred to as the "Board") under the administrative control and supervision of a chairman directly responsible to the Administrator. The Board shall consist of a Chairman, a Vice Chairman, such number (not more than fifty) of associate members as may be found necessary, and such other professional, administrative, clerical, and stenographic personnel as are necessary in conducting hearings and considering and disposing of appeals properly before the Board.

(b) Members of the Board (including the Chairman and Vice Chairman) shall be appointed by the Administrator with the approval of the President.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1240.)

§ 4002. Assignment of members of Board

The Chairman may from time to time divide the Board into sections of three members, assign the members of the Board thereto, and designate the chief thereof. If a section as a result of a vacancy or absence or inability of a member assigned thereto to serve thereon is composed of a number of members less than designated for the section, the Chairman may assign other members to the section or direct the section to proceed with the transaction of business without awaiting any additional assignment of members thereto. A hearing docket shall be maintained and formal recorded hearings shall be held by such associate member or members as the Chairman may designate, the associate member or members being of the section which will make final determination in the claim. A section of the Board shall make a determination on any proceeding instituted before the Board and on any motion in connection therewith assigned to such section by the Chairman and shall make a report of any such determination, which report shall constitute its final disposition of the proceeding.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1241.)

§ 4003. Determinations by the Board

(a) The determination of the section, when unanimously concurred in by the members of the section shall be the final determination of the Board, except that the Board on its own motion may correct an obvious error in the record, or may upon the basis of additional official information from the service department concerned reach a contrary conclusion.

(b) When there is a disagreement among the members of the section the concurrence of the Chairman with the majority of members of such section shall constitute the final determination of the Board, except that the Board on its own motion may correct an obvious error in the record, or may upon the basis of additional official information from the service department concerned reach a contrary conclusion.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1241.)

§ 4004. Jurisdiction of the Board

(a) All questions on claims involving benefits under the laws administered by the Veterans' Administration shall be subject to one review on appeal to the Administrator. Final decisions on such appeals shall be made by the Board.

(b) When a claim is disallowed by the Board, it may not thereafter be reopened and allowed, and no claim based upon the same factual basis shall be considered; however, where subsequent to disallowance of a claim, new and material evidence in the form of official reports from the proper service department is secured, the Board may authorize the reopening of the claim and review of the former decision.

(c) The Board shall be bound in its decisions by the regulations of the Veterans' Administration, instructions of the Administrator, and the precedent opinions of the chief law officer.

(d) The decisions of the Board shall be in writing and shall contain findings of fact and conclusions of law separately stated.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1241; Pub. L. 87-97, § 1, July 20, 1961, 75 Stat. 215.)

AMENDMENTS

1961—Subsec. (d). Pub. L. 87-97 added subsec. (d).

EFFECTIVE DATE OF 1961 AMENDMENT

Section 2 of Pub. L. 87-97 provided that: "The amendment made by this Act [adding subsec. (d) of this section] shall take effect as of January 1, 1962."

§ 4005. Filing of notice of disagreement and appeal

(a) Appellate review will be initiated by a notice of disagreement and completed by a substantive appeal after a statement of the case is furnished as prescribed in this section. Each appellant will be accorded hearing and representation rights pursuant to the provisions of this chapter and regulations of the Administrator.

(b)(1) Except in the case of simultaneously contested claims, notice of disagreement shall be filed within one year from the date of mailing of notice of the result of initial review or determination. Such notice, and appeals, must be in writing and be filed with the activity which entered the determination with which disagreement is expressed (hereafter referred to as the "agency of original jurisdiction"). A notice of disagreement postmarked before the expiration of the one-year period will be accepted as timely filed.

(2) Notices of disagreement, and appeals, must be in writing and may be filed by the claimant, his legal guardian, or such accredited representative, attorney, or authorized agent as may be selected by him. Not more than one recognized organization, attorney, or agent will be recognized at any one time in the prosecution of a claim.

(c) If no notice of disagreement is filed in accordance with this chapter within the prescribed period, the action or determination shall become final and the claim will not thereafter be reopened or allowed, except as may otherwise be provided by regulations not inconsistent with this title.

(d)(1) Where the claimant, or his representative, within the time specified in this chapter, files a notice of disagreement with the decision of the agency of original jurisdiction, such agency will take such development or review action as it deems proper under the provisions of regulations not inconsistent with this title. If such action does not resolve the disagreement either by granting the benefit sought or through withdrawal of the notice of disagreement, such agency will prepare a statement of the case consisting of—

(A) A summary of the evidence in the case pertinent to the issue or issues with which disagreement has been expressed;

(B) A citation or discussion of the pertinent law, regulations, and, where applicable, the provisions of the Schedule for Rating Disabilities;

(C) The decision on such issue or issues and a summary of the reasons therefor.

(2) A statement of the case, as required by this subsection, will not disclose matters that would be contrary to section 3301 of this title or otherwise contrary to the public interest. Such matters may be disclosed to a designated representative unless the relationship between the claimant and the representative is such that disclosure to the representative would be as harmful as if made to the claimant.

(3) Copies of the "statement of the case" prescribed in paragraph (1) of this subsection will be submitted to the claimant and to his representative, if there is one. The claimant will be afforded a period of sixty days from the date the statement of the case is mailed to file the formal appeal. This may be extended for a reasonable period on request for good cause shown. The appeal should set out specific allegations of error of fact or law, such allegations related to specific items in the statement of the case. The benefits sought on appeal must be clearly identified. The agency of original jurisdiction may close the case for failure to respond after receipt of the statement of the case, but questions as to timeliness or adequacy of response shall be determined by the Board of Veterans' Appeals.

(4) The appellant will be presumed to be in agreement with any statement of fact contained in the statement of the case to which no exception is taken.

(5) The Board of Veterans' Appeals will base its decision on the entire record and may dismiss any appeal which fails to allege specific error of fact or law in the determination being appealed.

(Added Pub. L. 87-666, § 1, Sept. 19, 1962, 76 Stat. 553.)

PRIOR PROVISIONS

A prior section 4005, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1241, which related to similar subject matter, was repealed by Pub. L. 87-666.

EFFECTIVE DATE

Section 3 of Pub. L. 87-666 provided that: "The amendments made by this Act [enacting sections 4005, 4005A, and 4006 of this title, redesignating former section 4006 as 4007 of this title, and repealing former sections 4005 and 4007 of this title] shall be effective January 1, 1963."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4005A, 4006 of this title.

§ 4005A. Simultaneously contested claims

(a) In simultaneously contested claims where one is allowed and one rejected, the time allowed for the filing of a notice of disagreement shall be sixty days from the date notice of the adverse action is mailed. In such cases the agency of original jurisdiction shall promptly notify all parties in interest at the last known address of the action taken, expressly inviting attention to the fact that notice of disagreement will not be entertained unless filed within the sixty-day period prescribed by this subsection.

(b) Upon the filing of a notice of disagreement, all parties in interest will be furnished with a statement of the case in the same manner as is prescribed in section 4005. The party in interest who filed a notice of disagreement will be allowed thirty days from the date of mailing of such statement of the case in which to file a formal appeal. Extension of time may be granted for good cause shown but with consideration to the interests of the other parties involved. The substance of the appeal will be communicated to the other party or parties in interest and a period of thirty days will be allowed for filing a brief or argument in answer thereto. Such notice shall be forwarded to the last known address of record of the parties concerned, and such action shall constitute sufficient evidence of notice.

(Added Pub. L. 87-666, § 1, Sept. 19, 1962, 76 Stat. 554.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 4007 of this title, prior to the general amendment of sections 4005 to 4007 by Pub. L. 87-666.

EFFECTIVE DATE

Section effective Jan. 1, 1963, see section 3 of Pub. L. 87-666, set out as a note under section 4005 of this title.

§ 4006. Administrative appeals

Application of review on appeal may be made within the one-year period prescribed in section 4005 of this title by such officials of the Veterans' Administration as may be designated by the Administrator. An application entered under this paragraph shall not operate to deprive the claimant of the right of review on appeal as provided in this chapter.

(Added Pub. L. 87-666, § 1, Sept. 19, 1962, 76 Stat. 554.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in subsec. (c)(2) of former section 4005 of this title, prior to the general amendment of sections 4005 to 4007 by Pub. L. 87-666.

A prior section 4006 was renumbered section 4007.

§ 4007. Docketing of appeals

All cases received pursuant to application for review on appeal shall be considered and decided in regular order according to their places upon the docket; however, for cause shown a case may be advanced on motion for earlier consideration and determination. Every such motion shall set forth succinctly the grounds upon which it is based. No such motion shall be granted except in cases involving interpretation of law of general application affecting other claims, or for other sufficient cause shown.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1242, § 4006, renumbered Pub. L. 87-666, § 1, Sept. 19, 1962, 76 Stat. 553.)

PRIOR PROVISIONS

A prior section 4007, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1242, relating to simultaneously contested claims, was repealed by Pub. L. 87-666. See now section 4005A of this title.

§ 4008. Rejection of applications

An application for review on appeal shall not be entertained unless it is in conformity with this chapter.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1243.)

§ 4009. Independent medical opinions

(a) When, in the judgment of the Board, expert medical opinion, in addition to that available within the Veterans' Administration, is warranted by the medical complexity or controversy involved in an appeal case, the Board is authorized to secure an advisory medical opinion from one or more independent medical experts who are not employees of the Veterans' Administration.

(b) The Administrator shall make necessary arrangements with recognized medical schools, universities, or clinics to furnish such advisory medical opinions at the request of the Chairman of the Board. Such arrangement will provide that the actual selection of the expert or experts to give the advisory opinion in any individual case will be made by an appropriate official of such institution.

(Added Pub. L. 87-671, § 1, Sept. 19, 1962, 76 Stat. 557.)

EFFECTIVE DATE

Section effective Jan. 1, 1963, see section 4 of Pub. L. 87-671, set out as an Effective Date of 1962 Amendment note under section 3301 of this title.

CROSS REFERENCES

Disclosure of papers and documents relating to claims to independent medical experts, see section 3301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3301 of this title.

CHAPTER 73—DEPARTMENT OF MEDICINE AND SURGERY

SUBCHAPTER I—ORGANIZATION; GENERAL

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AMENDMENTS

1976—Pub. L. 94-581, title I, § 111(a)(2), Oct. 21, 1976, 90 Stat. 2852, added the analysis for subchapter III consisting of items 4131 to 4134.

1975—Pub. L. 94-123, § 2(d)(2), Oct. 22, 1975, 89 Stat. 673, added item 4118.

1973—Pub. L. 93-82, title II, § 204(b), Aug. 2, 1973, 87 Stat. 192, substituted "Personnel administration" for "Administration" in item 4108.

1972—Pub. L. 92-541, § 3(b), Oct. 24, 1972, 86 Stat. 1108, designated existing sections as subchapter I and added subchapter II.

1966—Pub. L. 89-785, title I, §§ 109(b), 111(d), 112(b), Nov. 7, 1966, 80 Stat. 1371, 1372, substituted "Special Medical Advisory group; other advisory bodies" for "Medical advisory group" in item 4112, and "Temporary full-time, part-time, and without compensation appointments" for "Temporary and part-time appointments" in item 4114, and added item 4117.

1965—Pub. L. 89-311, § 6(b), Oct. 31, 1965, 79 Stat. 1156, added item 4116.

1964—Pub. L. 88-426, title I, § 117(b), Aug. 14, 1964, 78 Stat. 410 substituted "Office of the Chief Medical Director" for "Appointments and compensation" in item 4103.

1962—Pub. L. 87-793, § 803(b), Oct. 11, 1962, 76 Stat. 861, substituted "Administration" for "Specialist ratings" in item 4108.

Pub. L. 87-574, § 4(3), Aug. 6, 1962, 76 Stat. 309, inserted "; residencies and internships" in item 4114.

CROSS REFERENCES

Student-employees pay provisions, nonlimitation of authority conferred on Administrator by this chapter, see section 5355 of Title 5, Government Organization and Employees.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 5 sections 4301, 5102, 5301, 5303, 5304 and 5355.

SUBCHAPTER I—ORGANIZATION: GENERAL

§ 4101. Functions of Department

(a) There shall be in the Veterans' Administration a Department of Medicine and Surgery under a Chief Medical Director. The primary function of the Department of Medicine and Surgery shall be to provide a complete medical and hospital service, as provided in this title and in regulations prescribed by the Administrator pursuant thereto, for the medical care and treatment of veterans.

(b) In order to carry out more effectively the primary function of the Department of Medicine and Surgery and in order to assist in providing an adequate supply of health manpower to the Nation, the Administrator shall, to the extent feasible without interfering with the medical care and treatment of veterans, develop and carry out a program of education and training of such health manpower (including the developing and evaluating of new health careers, interdisciplinary approaches and career advancement opportunities), and shall carry out a major program for the recruitment, training, and employment of veterans with medical military occupation specialties as physician assistants, expanded-function dental auxiliaries, and other medical technician (including advising all such qualified veterans and members of the armed forces about to be discharged or released from active duty of such employment opportunities), acting in cooperation with such schools of medicine, osteopathy, dentistry, nursing, pharmacy, optometry, podiatry, public health, or allied health professions; other institutions of higher learning; medical centers; academic health centers; hospitals; and such other public or nonprofit agencies, institutions, or organizations as the Administrator deems appropriate.

(c)(1) In order to carry out more effectively the primary function of the Department of Medicine and Surgery and in order to contribute to the Nation's knowledge about disease and disability, the Administrator shall, in connection with the provision of medical care and treatment to veterans, carry out a program of medical research (including biomedical, prosthetic, and health care services research, and stressing research into spinal cord injuries and diseases and other disabilities that lead to paralysis of the lower extremities). In carrying out such research program, the Administrator shall act in cooperation with the entities described in subsection (b) of this section.

(2) Prosthetic research shall include research and testing in the field of prosthetic, orthotic, and orthopedic appliances and sensory devices. In order that the unique investigative material and research data in the possession of the Government may result in the improvement of such appliances and devices for all disabled persons, the Administrator, through the Chief Medical Director, shall make the results of such research available to any person, and shall consult and cooperate with the Secretary of Health, Education, and Welfare and the Commissioner of the Rehabilitation Services Administration, Department of Health, Education, and Welfare, in connection with programs carried out under section 3(b) of the Rehabilitation Act of 1973 (Public Law 93-112; 87 Stat. 357) (relating to the development and support, and the stimulation of the development and utilization, including production and distribution of new and existing devices, of innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems), section 202(b)(2) of such Act (relating to the establishment and support of Rehabilitation Engineering Research Centers), and section 405 of such Act (relating to the secretarial responsibilities for planning, analysis, promoting utilization of scientific advances, and information clearinghouse activities).

(3)(A) With the approval of the Administrator, any contract or research authorized by this section, the performance of which involves a risk of an unusually hazardous nature, may provide that the United States will indemnify the contractor against either or both of the following, but only to the extent that they arise out of the direct performance of the contract and to the extent not covered by the financial protection required under subparagraph (E) of this paragraph.

(i) Liability (including reasonable expenses of litigation or settlement) to third persons, except liability under State or Federal workers' injury compensation laws to employees of the contractor employed at the site of and in connection with the contract for which indemnification is granted, for death, bodily injury, or loss of or damage to property, from a risk that the contract defines as unusually hazardous.

(ii) Loss of or damage to property of the contractor from a risk that the contract defines as unusually hazardous.

(B) A contract that provides for indemnification in accordance with subparagraph (A) of this paragraph must also provide for—

(i) notice to the United States of any claim or suit against the contractor for death, bodily injury, or loss of or damage to property; and

(ii) control of or assistance in the defense by the United States, at its election, of any such suit or claim for which indemnification is provided hereunder.

(C) No payment may be made under subparagraph (A) of this paragraph unless the Administrator, or the Administrator's designee, certifies that the amount is just and reasonable.

(D) Upon approval by the Administrator, payments under subparagraph (A) of this paragraph may be made from—

(i) funds obligated for the performance of the contract concerned;

(ii) funds available for research or development or both, and not otherwise obligated; or

(iii) funds appropriated for those payments.

(E) Each contractor which is a party to an indemnification agreement under subparagraph (A) of this paragraph shall have and maintain financial protection of such type and in such amounts as the Administrator shall require to cover liability to third persons and loss of or damage to the contractor's property. The amount of financial protection required shall be the maximum amount of insurance available from private sources, except that the Administrator may establish a lesser amount, taking into consideration the cost and terms of private insurance. Such financial protection may include private insurance, private contractual indemnities, self-insurance, other proof of financial responsibility, or a combination of such measures.

(F) In administering the provisions of this paragraph, the Administrator may use the facilities and services of private insurance organizations, and may contract to pay a reasonable compensation therefor. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5), upon a showing by the Administrator that advertising is not reasonably practicable, and advance payments may be made under any such contract.

(G) The authority to indemnify contractors under this paragraph does not create any rights in third persons which would not otherwise exist by law.

(H) As used in this section, the term "contractor" includes subcontractors of any tier under a contract containing an indemnification provision pursuant to subparagraph (A) of this paragraph.

(4) Funds appropriated to carry out this subsection shall remain available until expended.

(d)(1) Within ninety days after enactment of this subsection, the Administrator, in consultation with the Chief Medical Director, is directed to conclude negotiations for an agreement with the National Academy of Sciences under which such Academy (utilizing its full resources and expertise) will conduct an extensive review and appraisal of personnel and other resource requirements in Veterans' Administration hospitals, clinics, and other medical facilities to determine a basis for the optimum numbers and categories of such personnel and other resources needed to insure the provisions to eligible veterans of high quality care in all hospital, medical domiciliary, and nursing home facilities. Such agreement shall provide that (A) at the earliest feasible date interim reports and the final report will be submitted by the National Academy of Sciences to the Administrator, the President of the Senate, and the Speaker of the House of Representatives, and (B) the final report will be submitted no later than twenty-four months after the date of the agreement except that the Administrator, in consultation with the Chief Medical Director and after consultation with the House and Senate Committees on Veterans' Affairs, may permit an extension up to twelve additional months.

(2) Within ninety days after the submission of the final report described in subsection (a) of this section, the Administrator shall submit to the Senate and House Committees on Veterans' Affairs a detailed report of the Administrator's views on the National Academy of Sciences' findings and recommendations submitted in such report, including (A) the steps and timetable therefor (to be carried out in not less than three years) the Administrator proposes to take to implement such findings and recommendations and (B) any disagreements, and the reasons therefor, with respect to such findings and recommendations.

(3) The Administrator shall cooperate fully with the National Academy of Sciences, and make available to the Academy all such staff, information, records, and other assistance, and shall set aside for such purposes such sums, as are necessary to insure the success of the study.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1243; Pub. L. 89–785, title I, § 101, Nov. 7, 1966, 80 Stat. 1368; Pub. L. 93–82, title II, § 201, Aug. 2, 1973, 87 Stat. 187; Pub. L. 94–581, title II, §§ 205(a), 209(a)(1), (3), 210(c)(1), Oct. 21, 1976, 90 Stat. 2857, 2860, 2863.)

REFERENCES IN TEXT

Sections 3(b), 202(b)(2), and 405 of the Rehabilitation Act of 1973, referred to in subsec. (c)(2), are classified to sections 702(b), 762(b)(2), and 785, respectively, of Title 29, Labor.

Ninety days after enactment of this subsection, referred to in subsec. (d)(1), means ninety days after the enactment of Pub. L. 92–83, which was approved Aug. 2, 1973.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–581, § 205(a)(1), substituted "The primary function of the Department of Medicine and Surgery shall be to provide a complete medical and hospital service, as provided in this title and in regulations prescribed by the Administrator pursuant thereto, for the medical care and treatment of veterans" for "The functions of the Department of Medicine and Surgery shall be those necessary for a complete medical and hospital service, including medical research, as prescribed by the Administrator pursuant to this chapter and other statutory authority, for the medical care and treatment of veterans".

Subsec. (b). Pub. L. 94–581, §§ 205(a)(2), 209(a)(1), (3), 210(c)(1)(A), struck out "to provide a complete medical and hospital service for the medical care and treatment of veterans" following "primary function of the Department of Medicine and Surgery" and substituted "physician assistants" for "physicians' assistants", "expanded-function dental auxiliaries" for

"dentists' assistants", and "members of the armed forces" for "servicemen".

Subsec. (c). Pub. L. 94-581, § 205(a)(3), added subsec. (c). Former subsec. (c) was redesignated as (d).

Subsec. (d). Pub. L. 94-581, §§ 205(a)(3), 210(c)(1)(B), redesignated subsec. (c) as (d) and in par. (2) of subsec. (d) as so redesignated substituted "the Administrator's" for "his" and "the Administrator proposes" for "he proposes".

1973—Subsec. (b). Pub. L. 93-82 authorized the Administrator to develop and carry out a program of education and training of health manpower and to carry out a major program for the recruitment, training, and employment of veterans with medical military occupation specialties as physicians' assistants, dentists' assistants, and other medical technicians, and advise qualified veterans and servicemen about to be discharged or released from active duty of such employment opportunities, acting in cooperation with such schools of medicine, osteopathy, dentistry, nursing, pharmacy, optometry, podiatry, public health, or allied health professions and such others as the Administrator deems appropriate.

Subsec. (c). Pub. L. 93-82 added subsec. (c).

1966—Pub. L. 89-785 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581 set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1904, 4121, 5070, 5096 of this title.

§ 4102. Divisions of Department

The Department of Medicine and Surgery shall include the following: Office of the Chief Medical Director, a Medical Service, a Dental Service, a Podiatric Service, an Optometric Service, a Nursing Service, and such other professional and auxiliary services as the Administrator may find to be necessary to carry out the functions of the Department.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1243; Pub. L. 89-785, title I, § 102, Nov. 7, 1966, 80 Stat. 1368; Pub. L. 94-581, title I, § 110(1), Oct. 21, 1976, 90 Stat. 2848.)

AMENDMENTS

1976—Pub. L. 94-581 inserted "a Podiatric Service, an Optometric Service," following "Dental Service,".

1966—Pub. L. 89-785 substituted "a Medical Service, a Dental Service, a Nursing Service, and such other professional and auxiliary services as the Administrator may find to be necessary to carry out the functions of the Department" for "Medical Service, Dental Service, Nursing Service, and Auxiliary Service".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581 set out as an Effective Date of 1976 Amendment note under section 111 of this title.

§ 4103. Office of the Chief Medical Director

(a) The Office of the Chief Medical Director shall consist of the following—

(1) The Chief Medical Director, who shall be the Chief of the Department of Medicine and Surgery and shall be directly responsible to the Administrator for the operations of the Department, and who shall be a qualified doctor of medicine, appointed by the Administrator.

(2) The Deputy Chief Medical Director, who shall be the principal assistant of the Chief Medical Director, and who shall be a qualified doctor of medicine, appointed by the Administrator upon the recommendation of the Chief Medical Director.

(3) The Associate Deputy Chief Medical Director, who shall be an assistant to the Chief Medical Director and the Deputy Chief Medical Director, and who shall be a qualified doctor of medicine, appointed by the Administrator upon the recommendation of the Chief Medical Director.

(4) Not to exceed eight Assistant Chief Medical Directors, who shall be appointed by the Administrator upon the recommendation of the Chief Medical Director. Not more than two Assistant Chief Medical Directors may be persons qualified in the administration of health services who are not doctors of medicine, dental surgery, or dental medicine. One Assistant Chief Medical Director shall be a qualified doctor of dental surgery or dental medicine who shall be directly responsible to the Chief Medical Director for the operation of the Dental Service.

(5) Such Medical Directors as may be appointed by the Administrator, upon the recommendation of the Chief Medical Director, to suit the needs of the Department. A Medical Director shall be either a qualified doctor of medicine or a qualified doctor of dental surgery or dental medicine.

(6) A Director of Nursing Service, who shall be a qualified registered nurse, appointed by the Administrator, and who shall be responsible to the Chief Medical Director for the operation of the Nursing Service.

(7) A Director of Pharmacy Service, a Director of Dietetic Service, a Director of Podiatric Service, and a Director of Optometric Service, appointed by the Administrator, and who shall be responsible to the Chief Medical Director for the operation of their respective Services.

(8) Such other personnel as may be authorized by this chapter.

(b) Except as provided in subsection (c) of this section—

(1) any appointment under this section shall be for a period of four years, with reappointment permissible for successive like periods,

(2) any such appointment or reappointment may be extended by the Administrator for a period not in excess of three years, and

(3) any person so appointed or reappointed or whose appointment or reappointment, is extended shall be subject to removal by the Administrator for cause.

(c) The Administrator may designate a member of the Chaplain Service of the Veterans' Administration as Director, Chaplain Service, for a period of two years, subject to removal

by the Administrator for cause. Redesignation under this subsection may be made for successive like periods or for any period not exceeding two years. A person designated as Director, Chaplain Service, shall at the end of such person's period of service as Director revert to the position, grade, and status which such person held immediately prior to being designated Director, Chaplain Service, and all service as Director, Chaplain Service, shall be creditable as service in the former position.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1243; Pub. L. 86-568, title I, § 114(a)-(e), July 1, 1960, 74 Stat. 300; Pub. L. 87-574, § 5, Aug. 6, 1962, 76 Stat. 309; Pub. L. 87-793, § 801, Oct. 11, 1962, 76 Stat. 859; Pub. L. 88-18, May 8, 1963, 77 Stat. 15; Pub. L. 88-426, title I, § 117(a), Aug. 14, 1964, 78 Stat. 409; Pub. L. 89-785, title I, § 103(a), (b), Nov. 7, 1966, 80 Stat. 1368; Pub. L. 93-82, title II, § 202, Aug. 2, 1973, 87 Stat. 188; Pub. L. 94-581, title I, § 110(2), title II, §§ 205(d), 209(c)(1), 210(c)(2), Oct. 21, 1976, 90 Stat. 2848, 2859, 2861, 2863.)

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-581, § 210(c)(2)(A), substituted "operations of the Department, and who shall be" for "operations of the Department. He shall be".

Subsec. (a)(2). Pub. L. 94-581, §§ 205(d)(1), 210(c)(2)(A), substituted "Chief Medical Director, and who shall be" for "Chief Medical Director. He shall be" and added "upon the recommendation of the Chief Medical Director" following "Administrator".

Subsec. (a)(3). Pub. L. 94-581, §§ 205(d)(1), 210(c)(2)(A), substituted "Deputy Chief Medical Director, and who shall be" for "Deputy Chief Medical Director. He shall be" and added "upon the recommendation of the Chief Medical Director" following "Administrator".

Subsec. (a)(4). Pub. L. 94-581, §§ 205(d)(2), 209(c)(1)(A), substituted "persons" for "individuals" and "recommendation" for "recommendations".

Subsec. (a)(7). Pub. L. 94-581, § 110(2), substituted "a Director of Podiatric Service, and a Director of Optometric Service, appointed by the Administrator, and who shall be responsible to the Chief Medical Director for the operation of their respective Services" for "and a Director of Optometry, appointed by the Administrator".

Subsec. (a)(8). Pub. L. 94-581, § 209(c)(1)(B), struck out "and employees" following "other personnel".

Subsec. (b)(3). Pub. L. 94-581, § 205(d)(3), added "or whose appointment or reappointment, is extended" following "appointed or reappointed".

Subsec. (c). Pub. L. 94-581, §§ 205(d)(4), 209(c)(1)(C), 210(c)(2)(B), added "or for any period not exceeding two years" following "successive like periods" and substituted "A person" for "An individual", "such person's" for "his", and "such person" for "he".

1973—Subsec. (a)(4). Pub. L. 92-83, § 202(1), increased the number of Assistant Chief Medical Directors to eight and added provision that not more than two such Directors may be individuals qualified in the administration of health services who are not doctors of medicine, dental surgery, or dental medicine.

Subsec. (a)(7). Pub. L. 93-82, § 202(2), substituted "A Director of Pharmacy Service, a Director of Dietetic Service, and a Director of Optometry" for "A Chief Pharmacist, and a Chief Dietitian".

1966—Subsec. (a). Pub. L. 89-785, § 103(a), added par. (3), redesignated former par. (3) as (4) and substituted therein "six" for "five," and redesignated former pars. (4)-(7) as (5)-(8), respectively.

Subsec. (b). Pub. L. 89-785, § 103(b), authorized the Administrator to extend any appointment or reappointment for a period not in excess of three years.

1964—Pub. L. 88-426 substituted "Office of the Chief Medical Director" for "Appointments and compensation" in the catchline, and amended section generally to eliminate provisions which prescribed the compensation of the enumerated personnel, which provisions are now contained in section 4107 of this title and section 2211(c)(4), (d)(31) of title 5, and provisions which made section 62 of title 5 inapplicable to any individual appointed before January 1, 1964, as Chief Medical Director, and section 59a of title 5 applicable to such individual, which provisions are now contained in a note set out under this section.

1963—Subsec. (b). Pub. L. 88-18 made the provisions of section 62 of Title 5 inapplicable and the provisions of section 59a of Title 5 applicable to any person appointed Chief Medical Director before Jan. 1, 1964.

1962—Subsec. (a). Pub. L. 87-793, § 801(a), substituted "not to exceed five Assistant Chief Medical Directors, such Medical Directors as may be designated to suit the needs of the Department" for "not to exceed eight Assistant Chief Medical Directors".

Subsec. (d). Pub. L. 87-793, § 801(b), increased the salary of each Assistant Chief Medical Director from $18,685 to $20,000 a year, and eliminated provisions which authorized not more than 25 directors of service or chief of division to be paid a salary of $15,640 minimum to $17,740 maximum, which are now covered by subsec. (e) of this section.

Subsec. (e). Pub. L. 87-793, § 801(b), added subsec. (e) and redesignated former subsec. (e) as (f). Provisions of subsec. (e) were formerly contained in subsec. (d) of this section.

Subsec. (f). Pub. L. 87-793, § 801(b), redesignated former subsec. (e) as (f), increased the salary of the Director from a range of $13,730 minimum to $15,030 maximum to a range of $14,565 minimum to $17,925 maximum effective on the first day of the first pay period beginning on or after Oct. 11, 1962, and to $15,665 minimum to $19,720 maximum effective on the first day of the first pay period beginning on or after Jan. 1, 1964, and eliminated provisions which related to appointment and salary of the Deputy Director of Nursing Service. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 87-793, § 801(b), redesignated former subsec. (f) as (g), increased the salary of the chief pharmacist and chief dietitian from a range of $13,730 minimum to $15,030 maximum to a range of $14,565 minimum to $17,925 maximum effective on the first day of the first pay period beginning on or after Oct. 11, 1962, and to $15,665 minimum to $19,270 maximum effective on the first day of the first pay period beginning on or after Jan. 1, 1964, and eliminated provisions which related to appointment and salary of a chief physical therapist and a chief occupational therapist. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 87-793, § 801(b), redesignated former subsec. (g) as (h) and inserted the exception clause, which was also inserted by Pub. L. 87-574, § 5(1). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 87-793, § 801(b), redesignated former subsec. (h) as (i). Former subsec (i) redesignated (j).

Subsec. (j). Pub. L. 87-574, § 5(2), added subsec. (i), which was redesignated as subsec. (j) by Pub. L. 87-793, § 801(b).

1960—Subsec. (b). Pub. L. 86-568, § 114(a), increased the salary of the Chief Medical Director from $19,580 to $21,050 a year.

Subsec. (c). Pub. L. 86-568, § 114(b), increased the salary of the Deputy Chief Medical Director from $18,480 to $19,870 a year.

Subsec. (d). Pub. L. 86-568, § 114(c), increased the salaries of the Assistant Chief Medical Directors from $17,380 to $18,685 a year, and of the directors of service and chiefs of divisions from a range of $14,545 minimum to $16,500 maximum to a range of $15,640 minimum to $17,740 maximum.

Subsec. (e). Pub. L. 86-568, § 114(d), increased the salaries of the Director of Nursing Service from a range of $12,770 minimum to $13,970 maximum to a range of $13,730 minimum to $15,030 maximum, and

of the Deputy Director from a range of $11,355 minimum to $12,555 maximum to a range of $12,210 minimum to $13,510 maximum.

Subsec. (f). Pub. L. 86-568, § 114(e), increased the salaries of the chief pharmacist and chief dietitian from a range of $12,770 minimum to $13,970 maximum to a range of $13,730 minimum to $15,030 maximum, and of the chief physical therapist and chief occupational therapist from a range of $11,355 minimum to $13,555 maximum to a range of $12,210 minimum to $13,510 maximum.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88-426, see section 501 of Pub. L. 88-426.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 805 of Pub. L. 87-793 provided that: "Except as otherwise expressly provided in this title, this title [amending this section and section 4107 of this title] shall become effective on the first day of the first pay period which begins on or after the date of enactment of this Act [Oct. 11, 1962]."

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-568 effective on the first day of the first pay period which begins on or after July 1, 1960, see section 122 of Pub. L. 86-568.

REPORT TO CONGRESS ON THE DIRECTION OF HOSPITAL AND MEDICAL PROGRAM WITH REFERENCE TO THE INCREASING AVERAGE AGE OF ELIGIBLE VETERANS

Section 117(a) of Pub. L. 94-581 provided that the Chief Medical Director of the Department of Medicine and Surgery of the Veterans' Administration was to conduct a study of the direction of the hospital and medical program carried out under this title with specific reference to the increasing average age of the eligible veteran population, and the Director was to submit to the appropriate Committees on Veterans' Affairs of the Senate and the House a report on the results of such study no later than twelve months after Oct. 21, 1976.

CHIEF MEDICAL DIRECTOR APPOINTED BEFORE JAN. 1, 1964; APPLICABILITY OF OTHER LAWS

Section 117(c) of Pub. L. 88-426 provided that section 2 of the Act of July 31, 1894, as amended, dealing with dual compensation, did not apply to any individual appointed, before Jan. 1, 1964, as Chief Medical Director under section 4103 of title 38, United States Code; but section 212 of the Act of June 30, 1932, as amended, applied in accordance with its terms, to any such individual.

The next to last sentence of subsection (b) of this section, prior to its amendment by Pub. L. 88-426, which read as follows: "Section 62 of title 5 of the United States Code shall not apply to any individual appointed Chief Medical Director before January 1, 1964; however, section 59a of title 5 shall apply, in accordance with its terms, to any such individual" was repealed by Pub. L. 88-448, title IV, § 402(a)(38), Aug. 19, 1964, 78 Stat. 495. See section 5532 et seq. of Title 5, Government Organization and Employees.

CROSS REFERENCES

Chief medical director, see section 5314 of Title 5, Government Organization and Employees.

Deputy chief medical director, see section 5315 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4107, 4111, 4113 of this title.

§ 4104. Additional appointments

There shall be appointed by the Administrator additional personnel as the Administrator may find necessary for the medical care of veterans, as follows:

(1) Physicians, dentists, podiatrists, optometrists, nurses, physician assistants, and expanded-function dental auxiliaries;

(2) Pharmacists, physical therapists, occupational therapists, dietitians, and other scientific and professional personnel, such as bacteriologists, chemists, biostatisticians, and medical and dental technologists.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1244; Pub. L. 89-785, title I, § 104, Nov. 7, 1966, 80 Stat. 1369; Pub. L. 94-123, § 5(a), Oct. 22, 1975, 89 Stat. 675; Pub. L. 94-581, title I, § 110(3), title II, §§ 209(a)(1), (2), 210(c)(3), Oct. 21, 1976, 90 Stat. 2848, 2860, 2863.)

AMENDMENTS

1976—Pub. L. 94-581 substituted "the Administrator may find" for "he may find" in the provisions preceding par. (1), inserted "podiatrists, optometrists," after "dentists," and substituted "physician assistants" for "physicians' assistants" and "expanded-function" for "expanded-duty" in par. (1), and struck out "optometrists," following "professional personnel, such as" in par. (2).

1975—Par. (1). Pub. L. 94-123 added physicians' assistants, and expanded-duty dental auxiliaries.

1966—Pub. L. 89-785 eliminated managers and pathologists from par. (2).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 6(b) of Pub. L. 94-123 provided that: "Except as provided in subsection (a)(1) of this section, the amendments made by this Act [amending sections 4104, 4105, 4106, 4107(e)(5), 4107(f), and 4108 of this title and enacting provisions set out as notes under section 4118 of this title] shall become effective beginning the first pay period following thirty days after the date of the enactment of this Act [Oct. 22, 1975]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4107, 4110, 4111, 4113, 4114 of this title.

§ 4105. Qualifications of appointees

(a) Any person to be eligible for appointment to the following positions in the Department of Medicine and Surgery must have the applicable qualifications:

(1) Physician—

hold the degree of doctor of medicine or of doctor of osteopathy from a college or university approved by the Administrator, have completed an internship satisfactory

to the Administrator, and be licensed to practice medicine, surgery, or osteopathy in a State;

(2) Dentist—
hold the degree of doctor of dental surgery or dental medicine from a college or university approved by the Administrator, and be licensed to practice dentistry in a State;

(3) Nurse—
have successfully completed a full course of nursing in a recognized school of nursing, approved by the Administrator, and be registered as a graduate nurse in a State;

(4) Director of a hospital, domiciliary, center or outpatient clinic—
have such business and administrative experience and qualifications as the Administrator shall prescribe;

(5) Podiatrist—
hold the degree of doctor of podiatric medicine, or its equivalent, from a school of podiatric medicine approved by the Administrator, and be licensed to practice podiatry in a State;

(6) Optometrist—
hold the degree of doctor of optometry, or its equivalent, from a school of optometry approved by the Administrator and be licensed to practice optometry in a State;

(7) Pharmacist—
hold the degree of bachelor of science in pharmacy, or its equivalent, from a school of pharmacy, approved by the Administrator, and be registered as a pharmacist in a State;

(8) Physical therapists, occupational therapists, dietitians, and other personnel shall have such scientific or technical qualifications as the Administrator shall prescribe;

(9) Physician assistants and expanded-function dental auxiliaries shall have such medical or dental and technical qualifications and experience as the Administrator shall prescribe.

(b) Except as provided in section 4114 of this title, no person may be appointed in the Department of Medicine and Surgery as a physician, dentist, nurse, physician assistant, or expanded-function dental auxiliary unless such person is a citizen of the United States.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1244; Pub. L. 87-574, § 4(1), Aug. 6, 1962, 76 Stat. 308; Pub. L. 89-785, title I, § 105, Nov. 7, 1966, 80 Stat. 1369; Pub. L. 94-123, § 5(b), Oct. 22, 1975, 89 Stat. 675; Pub. L. 94-581, title I, § 110(4), title II, §§ 205(e), 209(a)(1), (2), (4), (c)(2), Oct. 21, 1976, 90 Stat. 2848, 2859, 2860, 2861.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-581, §§ 110(4), 205(e), 209(a)(2), (4), (c)(2), added par. (5), redesignated former pars. (5) to (8) as pars. (6) to (9), respectively, added "hold the degree of doctor of optometry, or its equivalent, from a school of optometry approved by the Administrator, and" preceding "be" in par. (6) as so redesignated, substituted "personnel" for "employees" in par. (8) as so redesignated, and substituted "Physician" for "Physicians'" and "expanded-function" for "expanded-duty" in par. (9) as so redesignated.

Subsec. (b). Pub. L. 94-581, § 209(a)(1), substituted "physician assistant" for "physicians' assistant" and "expanded-function" for "expended-duty".

1975—Subsec. (a)(8). Pub. L. 94-123, § 5(b)(1), added subsec. (a)(8).

Subsec. (b). Pub. L. 94-123, § 5(b)(2), substituted "nurse, physicians' assistant, or expanded-duty dental auxiliary unless such person is a citizen of the United States" for "or nurse unless he is a citizen of the United States".

1966—Pub. L. 89-785 eliminated references to the Auxiliary Service and auxiliary employees, substituted "Director of a hospital, domiciliary, center or outpatient clinic" for "manager of hospital, home, or center", and limited the requirement of citizenship for appointment to physicians, dentists and nurses.

1962—Pub. L. 87-574 inserted, ", except as provided in section 4114" in par. (1).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-123 effective beginning the first pay period following 30 days after Oct. 22, 1975, see section 6(b) of Pub. L. 94-123, set out as an Effective Date of 1975 Amendment note under section 4104 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4114 of this title.

§ 4106. Period of appointments; promotions

(a) Appointments of physicians, dentists, podiatrists, optometrists, and nurses shall be made only after qualifications have been satisfactorily established in accordance with regulations prescribed by the Administrator, without regard to civil-service requirements.

(b) Such appointments as described in subsection (a) of this section shall be for a probationary period of three years and the record of each person serving under such appointment in the Medical, Dental, and Nursing Services shall be reviewed from time to time by a board, appointed in accordance with regulations of the Administrator, and if said board shall find him not fully qualified and satisfactory he shall be separated from the service.

(c) Promotions of physicians, dentists, podiatrists, optometrists, and nurses shall be made only after examination given in accordance with regulations prescribed by the Administrator. Advancement within grade may be made in increments of the minimum rate of basic pay of the grade in accordance with regulations prescribed by the Administrator.

(d) In determining eligibility for reinstatement in Federal civil service of persons appointed to positions in the Department of Medicine and Surgery, who at the time of appointment shall have a civil-service status, and whose employment in the Department of Medicine and Surgery is terminated, the period of service performed in the Department of Medicine and Surgery shall be included in computing the period of service under applicable civil-service rules and regulations.

(e) In accordance with regulations prescribed by the Administrator, the grade and annual

rate of basic pay of a physician, dentist, podiatrist, optometrist, or nurse changed from a level of assignment where the grade level is based on both the nature of the assignment and personal qualifications, may be adjusted to the grade and annual rate of basic pay otherwise appropriate.

(f) The provisions of this section shall apply to physician assistants and expanded-duty dental auxiliaries.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1245; Pub. L. 89-785, title I, § 106, Nov. 7, 1966, 80 Stat. 1369; Pub. L. 94-123, § 5(c), Oct. 22, 1975, 89 Stat. 675; Pub. L. 94-581, title I, § 110(5), title II, §§ 209(a)(1), (b)(1), Oct. 21, 1976, 90 Stat. 2848, 2860, 2861.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-581, § 110(5), inserted "podiatrists, optometrists," following "dentists,".

Subsec. (c). Pub. L. 94-581, §§ 110(5), 209(b)(1)(A), inserted "podiatrists, optometrists," following "dentists," and "rate of basic" following "minimum".

Subsec. (e). Pub. L. 94-581, §§ 110(5), 209(b)(1)(B), inserted "podiatrist, optometrist," following "dentist," and substituted "and annual rate of basic pay" for "level and salary" and for "and salary".

Subsec. (f). Pub. L. 94-581, § 209(a)(1), substituted "physician assistants" for "physicians' assistants".

1975—Subsec. (f). Pub. L. 94-123 added subsec. (f).

1966—Subsec. (c). Pub. L. 89-785, § 106(a), substituted "Advancement" for "Automatic promotions".

Subsec. (e). Pub. L. 89-785, § 106(b), added subsec. (e).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-123 effective beginning the first pay period following 30 days after Oct. 22, 1975, see section 6(b) of Pub. L. 94-123, set out as an Effective Date of 1975 Amendment note under section 4104 of this title.

§ 4107. Grades and pay scales

(a) The annual rates or ranges of rates of basic pay for positions provided in section 4103 of this title shall be as follows:

SECTION 4103 SCHEDULE

Chief Medical Director, $54,000.

Deputy Chief Medical Director, $52,000.

Associate Deputy Chief Medical Director, $50,000.

Assistant Chief Medical Director, $48,654.

Medical Director, $42,066 minimum to $47,674 maximum.

Director of Nursing Service, $42,066 minimum to $47,674 maximum.

Director of Podiatric Service, $36,338 minimum to $46,026 maximum.

Director of Chaplain Service, $31,203 minimum to $39,523 maximum.

Director of Pharmacy Service, $31,203 minimum to $39,523 maximum.

Director of Dietetic Service, $31,203 minimum to $39,523 maximum.

Director of Optometric Service $31,203 minimum to $39,523 maximum.

(b)(1) The grades and annual ranges of rates of basic pay for positions provided for in paragraph (1) of section 4104 of this title shall be as follows:

PHYSICIAN AND DENTIST SCHEDULE

Director grade, $36,338 minimum to $46,026 maximum.

Executive grade, $33,736 minimum to $43,861 maximum.

Chief grade, $31,309 minimum to $40,705 maximum.

Senior grade, $26,861 minimum to $34,916 maximum.

Intermediate grade, $22,906 minimum to $29,782 maximum.

Full grade, $19,386 minimum to $25,200 maximum.

Associate grade, $16,255 minimum to $21,133 maximum.

NURSE SCHEDULE

Director grade, $26,898 minimum to $34,971 maximum.

Assistant Director grade, $23,088 minimum to $30,018 maximum.

Chief grade, $19,700 minimum to $25,613 maximum.

Senior grade, $16,682 minimum to $21,686 maximum.

Intermediate grade, $13,996 minimum to $18,190 maximum.

Full grade, $11,614 minimum to $15,097 maximum.

Associate grade, $10,012 minimum to $13,018 maximum.

Junior grade, $8,572 minimum to $11,146 maximum.

CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE

Chief grade, $31,309 minimum to $40,705 maximum.

Senior grade, $26,861 minimum to $34,916 maximum.

Intermediate grade, $22,906 minimum to $29,782 maximum.

Full grade, $19,386 minimum to $25,200 maximum.

Associate grade, $16,255 minimum to $21,133 maximum.

(2) No person may hold the director grade in the "Physician and Dentist Schedule" unless such person is serving as a director of a hospital, domiciliary, center, or outpatient clinic (independent). No person may hold the executive grade unless such person holds the position of chief of staff at a hospital, center, or outpatient clinic (independent), or comparable position.

(c) Notwithstanding any other provision of law, the per annum salary rate of each person serving as a director of a hospital, domiciliary facility, or center who is not a physician shall not be less than the salary rate which such person would receive under this section if such person's service as a director of a hospital, domiciliary facility, or center had been service as a physician in the director grade. The position of the director of a hospital, domiciliary facility, or center shall not be subject to chapter 51 and subchapter III of chapter 53 of Title 5.

(d) Notwithstanding any other provision of law, and except as provided in section 4118 of this title, pay may not be paid at a rate in excess of the rate of basic pay for an appropriate level authorized by section 5314, 5315, or

5316 of title 5 for positions in the Executive Schedule, as follows:

(1) Level III for the Chief Medical Director;

(2) Level IV for the Deputy Chief Medical Director; and

(3) Level V for all other positions for which such basic pay is paid under this section.

(e)(1) In addition to the rate of basic pay provided for nurses in subsection (b)(1) of this section, a nurse shall receive additional pay as provided by paragraphs (2) through (8) of this subsection.

(2) A nurse performing service on a tour of duty, any part of which is within the period commencing at 6 postmeridian and ending at 6 antemeridian, shall receive additional pay for each hour of service on such tour at a rate equal to 10 per centum of the nurse's hourly rate of basic pay if at least four hours of such tour fall between 6 postmeridian and 6 antemeridian. When less than four hours of such tour fall between 6 postmeridian and 6 antemeridian, the nurse shall be paid the differential for each hour of service performed between those hours.

(3) A nurse performing service on a tour of duty, any part of which is within the period commencing at midnight Saturday and ending at midnight Sunday, shall receive additional pay for each hour of service on such tour at a rate equal to 25 per centum of such nurse's hourly rate of basic pay.

(4) A nurse performing service on a holiday designated by Federal statute or Executive order shall receive for each hour of such service the nurse's hourly rate of basic pay, plus additional pay at a rate equal to such hourly rate of basic pay, for that holiday service, including overtime service. Any service required to be performed by a nurse on such a designated holiday shall be deemed to be a minimum of two hours in duration.

(5) A nurse performing officially ordered or approved hours of service in excess of forty hours in an administrative workweek, or in excess of eight hours in a day, shall receive overtime pay for each hour of such additional service; the overtime rates shall be one and one-half times such nurse's hourly rate of basic pay, not to exceed one and one-half times the hourly rate of basic pay for the minimum rate of Intermediate grade of the Nurse Schedule. For the purposes of this paragraph, overtime must be of at least fifteen minutes duration in a day to be creditable for overtime pay. Compensatory time off in lieu of pay for service performed under the provisions of this paragraph shall not be permitted, except as voluntarily requested in writing by the nurse in question. Any excess service performed under this paragraph on a day when service was not scheduled for such nurse, or for which such nurse is required to return to her place of employment, shall be deemed to be a minimum of two hours in duration.

(6) For the purpose of computing the additional pay provided by paragraph (2), (3), (4), or (5) of this subsection, a nurse's hourly rate of basic pay shall be derived by dividing such nurse's annual rate of basic pay by two thousand and eighty.

(7) When a nurse is entitled to two or more forms of additional pay under paragraph (2), (3), (4), or (5) for the same period of service, the amounts of such additional pay shall be computed separately on the basis of such nurse's hourly rate of basic pay, except that no overtime pay as provided in paragraph (5) shall be payable for overtime service performed on a holiday designated by Federal statute or Executive order in addition to pay received under paragraph (4) for such service.

(8) A nurse who is officially scheduled to be on call outside such nurse's regular hours shall be paid for each hour of such on-call duty, except for such time as such nurse may be called back to work, at a rate equal to 10 per centum of the hourly rate for excess service as provided in paragraph (5) of this subsection.

(9) Any additional pay paid pursuant to this subsection shall not be considered as basic pay for the purposes of subchapter VI and section 5595 of subchapter IX of chapter 55, chapter 81, 83, or 87 of title 5, or other benefits based on basic pay.

(f) Under standards which the Administrator shall prescribe in regulations, physician assistants and expanded-function dental auxiliaries shall be compensated by use of Nurse Schedule grade title and related pay ranges and shall be entitled to additional pay on the same basis as provided for nurses in paragraphs (2) through (8) of subsection (e) of this section.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1245; Pub. L. 86-568, title I, § 114(f), July 1, 1960, 74 Stat. 301; Pub. L. 87-793, § 802, Oct. 11, 1962, 76 Stat. 860; Pub. L. 88-426, title I, § 118, Aug. 14, 1964, 78 Stat. 410; Pub. L. 89-301, § 7, Oct. 29, 1965, 79 Stat. 1117; Pub. L. 89-504, title I, § 105, July 18, 1966, 80 Stat. 291; Pub. L. 89-785, title I, § 107(a), Nov. 7, 1966, 80 Stat. 1370; Pub. L. 90-206, title II, § 208, Dec. 16, 1967, 81 Stat. 631; Pub. L. 91-496, § 2, Oct. 22, 1970, 84 Stat. 1092; Pub. L. 93-82, title II, § 203, Aug. 2, 1973, 87 Stat. 188; Pub. L. 94-123, §§ 2(b), 5(d), Oct. 22, 1975, 89 Stat. 669, 675; Pub. L. 94-581, title I, § 110(6), title II, §§ 209(a)(1), (2), (b)(2), (c)(3), 210(c)(4), Oct. 21, 1976, 90 Stat. 2848, 2860, 2861, 2863.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-581, §§ 110(6)(A), 209(b)(2)(A), substituted "annual rates or ranges of rates of basic pay" for "per annum full-pay scale or ranges" in the provisions preceding the section 4103 schedule and inserted item for a Director of Podiatric Service and substituted "Director of Optometric Service" for "Director of Optometry" in the section 4103 schedule.

Subsec. (b)(1). Pub. L. 94-581, §§ 110(6)(B), 209(b)(2)(B), substituted "annual ranges of rates of basic pay" for "per annum full-pay ranges" in the provisions preceding the schedules and added a schedule covering clinical podiatrists and optometrists.

Subsec. (b)(2). Pub. L. 94-581, § 210(c)(4)(A), substituted "such person" for "he" in two places.

Subsec. (c). Pub. L. 94-581, §§ 209(b)(2)(C), (c)(3)(A), 210(c)(4)(B), substituted "person" for "individual", "domiciliary facility" for "domiciliary" in three places, "such person" for "he", and "such person's" for "his".

Subsec. (e)(1). Pub. L. 94-581, § 209(b)(2)(D)(i), (iii), "rate of basic pay" for "basic compensation" and "pay" for "compensation".

Subsec. (e)(2). Pub. L. 94-581, § 209(b)(2)(D)(ii), (iii), (c)(3)(B), substituted "pay" for "compensation",

"nurse's hourly rate of basic pay" for "employee's basic hourly rate", and "service" for "work".

Subsec. (e)(3). Pub. L. 94-581, § 209(b)(2)(D)(ii), (iii), substituted "pay" for "compensation" and "hourly rate of basic pay" for "basic hourly rate".

Subsec. (e)(4). Pub. L. 94-581, § 209(b)(2)(D)(iv), substituted "for each hour of such service the nurse's hourly rate of basic pay, plus additional pay at a rate equal to such hourly rate of basic pay, for that holiday service, including overtime service" for "such nurse's regular rate of basic pay, plus additional pay at a rate equal to such regular rate of basic pay, for that holiday work, including overtime work".

Subsec. (e)(5). Pub. L. 94-581, § 209(b)(2)(D)(ii), substituted "hourly rate of basic pay" for "basic hourly rate" in two places.

Subsec. (e)(6). Pub. L. 94-581, § 209(b)(2)(D)(ii), (iii), substituted "pay" for "compensation" in two places and "hourly rate of basic pay" for "basic hourly rate".

Subsec. (e)(7). Pub. L. 94-581, § 209(b)(2)(D)(ii), (c)(3)(C), substituted "hourly rate of basic pay" for "basic hourly rate of pay" and "period of service" for "period of duty".

Subsec. (e)(8). Pub. L. 94-581, § 209(b)(2)(D)(v), substituted "paid" for "compensated".

Subsec. (e)(9). Pub. L. 94-581, § 209(b)(2)(D)(iii), substituted "pay" for "compensation" in three places.

Subsec. (f). Pub. L. 94-581, § 209(a)(1), (2), substituted "physician assistants" for "physicians' assistants" and "expanded-function" for "expanded-duty".

1975—Subsec. (a). Pub. L. 94-123, § 2(b)(1), (2), substituted "section 4103 of this title, shall be" for "section 4103 of this title, other than Chief Medical Director and Deputy Chief Medical Director, shall be", and in section 4103 schedule added "Chief Medical Director, $54,000." and "Deputy Chief Medical Director, $52,000.", substituted $50,000 for the pay of Associate Deputy Chief Medical Director for such pay by reference to the annual rate provided in section 5316 of Title 5 for positions in level V of the Executive Schedule, increased the pay of Assistant Chief Medical Director from $41,734 to $48,654 and also increased the minimum and maximum pay of Medical Director from $36,103, and $40,915 to $42,066 and $47,674 respectively.

Subsec. (b)(1). Pub. L. 94-123, § 2(b)(3), increased the salary minimums and maximums for all positions in "Physician and Dentist Schedule".

Subsec. (d). Pub. L. 94-123, § 2(b)(4), substituted provisions limiting with the exception in section 4118 of this title, the pay of Chief Medical Director at level III contained in section 5314 of title 5, the pay of Deputy Chief Medical Director at level IV contained in section 5315 of title 5, and for all other positions for which basic pay is paid under this section at level V contained in section 5316 of title 5 for provisions limiting pay under this section by reference to section 5308 of title 5.

Subsec. (e)(5). Pub. L. 94-123, § 5(d)(1), substituted provisions that compensatory time off in lieu of pay for service performed under the provisions of this paragraph shall not be permitted except as voluntarily requested in writing by the nurse in question for provisions that compensatory time off in lieu of pay for service performed under the provisions of this paragraph shall not be permitted.

Subsec. (f). Pub. L. 94-123, § 5(d)(2), added subsec. (f).

1973—Subsec. (a). Pub. L. 93-82, § 203(a), substituted provisions for the pay scale of Associate Deputy Chief Medical Director to be at the annual rate provided in section 5316 of title 5 for positions in level V of the Executive Schedule, for "$36,000", substituted "Director of Pharmacy Service" for "Chief Pharmacist", "Director of Dietetic Service" for "Chief Dietitian", added "Director of Optometry, $31,203 minimum to $39,523 maximum", and increased the minimum and maximum for all positions in section 4103 schedule.

Subsec. (b). Pub. L. 93-82, 203(b)(1), in par. (1), increased the salary maximums and minimums for all positions in "Physician and Dentist Schedule" and "Nurse Schedule" and added "Director Grade, $26,898 minimum to $34,971 maximum" in the Nurse Schedule, and in par. (2), substituted "the director grade in the Physician and Dentist Schedule" for "the director grade".

Subsecs. (d), (e). Pub. L. 93-82, § 203(b)(2), added subsecs. (d) and (e).

1970—Subsec. (a). Pub. L. 91-496 substituted "and" for a comma immediately after "Chief Medical Director", struck out "and Associate Deputy Chief Medical Director," and added "Associate Deputy Chief Medical Director, $36,000." under the Section 4103 Schedule.

1967—Pub. L. 90-206 increased the pay of the Assistant Chief Medical Director and the salary minimums and maximums for all other positions in the section 4103 schedule, the physician and dentist schedule, and the nurse schedule.

1966—Subsec. (a). Pub. L. 89-785, § 107(a)(1), excepted the Associate Deputy Chief Medical Director.

Pub. L. 89-504 increased the pay of the Assistant Chief Medical Director and the salary minimums and maximums for all other positions in the section 4103 schedule, the physician and dentist schedule, and the nurse schedule.

Subsec. (b). Pub. L. 89-785, § 107(a)(2), eliminated the position of clinic director at an outpatient clinic from par. (2).

Subsec. (c). Pub. L. 89-785, § 107(a)(3), added subsec. (c).

1965—Pub. L. 89-301 increased the pay of the Assistant Chief Medical Director together with the minimum and maximum figures in the pay scale or ranges for all other positions in the section 4103 schedule, the physician and dentist schedule, and the nurse schedule, by 3.6 percent across the board.

1964—Subsec. (a). Pub. L. 88-426 added subsec. (a) and redesignated former subsec. (a) as (b)(1).

Subsec. (b). Pub. L. 88-426 redesignated former subsecs. (a) and (b) as (b)(1) and (b)(2), respectively, and amended subsec. (b)(1) to increase the salary minimums and maximums for each grade.

1962—Subsec. (a). Pub. L. 87-793 amended subsection generally, and among other changes, established salary scales for Director and Executive grades in the physician and dentist schedule, and Chief and Intermediate grades in the Nursing Schedule, eliminated Junior grades from physician and dentist schedules, and authorized successive increases for physicians, dentists, and nurses, one effective on the first day of the first pay period beginning on or after Oct. 11, 1962, and the other effective on the first day of the first pay period beginning on or after Jan. 1, 1964. The salary ranges prior to this amendment were as follows: Physician and dentist schedule—chief grade $13,730 to $15,030; senior grade $12,210 to $13,510; intermediate grade $10,635 to $11,935; full grade $8,955 to $10,255; associate grade $7,560 to $8,860, and junior grade $6,995 to $7,985; Nurse schedule—assistant director $8,955 to $10,255; senior grade $7,569 to $8,860; full grade $6,435 to $7,425; associate grade $5,600 to $6,630, and junior grade $4,760 to $5,790.

Subsec. (b). Pub. L. 87-793 inserted provisions prohibiting a person from holding director grade unless he is serving as a director of a hospital, domiciliary, center, or outpatient clinic (independent), and from holding executive grade unless he holds the position of chief of staff at a hospital, center, or outpatient clinic (independent), or the position of clinic director at an outpatient clinic, or comparable position, and eliminated provisions which empowered the Administrator to prescribe the hours and conditions of employment and leaves of absence of physicians, dentists, and nurses, which provisions are now contained in section 4108 of this title.

1960—Pub. L. 86-568 increased minimum and maximum salaries for all grades an average of 7.5 percent.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an

Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment of subsecs. (a), (b), and (d) by section 2(b) of Pub. L. 94-123 effective on Oct. 12, 1975, see section 6(a)(1) of Pub. L. 94-123, set out as an Effective Date note under section 4118 of this title.

Amendment of subsecs. (e)(5) and (f) by enactment of section 5 of Pub. L. 94-123 effective beginning the first pay period following 30 days after Oct. 22, 1975, see section 6(b) of Pub. L. 94-123, set out as an Effective Date of 1975 Amendment note under section 4104 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective beginning the first pay period following thirty days after Aug. 2, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-206 effective as of the beginning of the first pay period which begins on or after Oct. 1, 1967, see section 220(a)(2) of Pub. L. 90-206, set out as an Effective Date of 1967 Amendment note under section 5332 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-504 effective on the first day of the first pay period which begins on or after July 1, 1966.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-301 effective on the first day of the first pay period which begins on or after October 1, 1965, see section 17 of Pub. L. 89-301.

EFFECTIVE DATE OF 1964 AMENDMENTS

Amendment by Pub. L. 88-426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88-428, see section 501 of Pub. L. 88-426.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-793 effective on the first day of the first pay period which begins on or after Oct. 11, 1962, see section 805 of Pub. L. 87-793, set out as an Effective Date of 1962 Amendment note under section 4103 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-568 effective on the first day of the first pay period which begins on or after July 1, 1960, see section 122 of Pub. L. 86-568.

COMPENSATION OF ASSOCIATE DEPUTY CHIEF MEDICAL DIRECTOR

Section 103(c) of Pub. L. 89-785, which set the compensation for the Associate Deputy Chief Medical Director of the Department of Medicine and Surgery of the Veterans' Administration to be the same as that of an Assistant Chief Medical Director in such Department, was repealed by section 2(b) of Pub. L. 91-496, Oct. 22, 1970, 84 Stat. 1092. See section 4103 Schedule in subsec. (a) of this section.

CONTINUATION IN EXECUTIVE GRADE OF CLINIC DIRECTORS AT OUTPATIENT CLINICS

Section 107(b) of Pub. L. 89-785 provided that: "Any physician or dentist in the executive grade on the date of enactment of this Act [Nov. 7, 1966] by virtue of his holding the position of clinic director at an outpatient clinic may be continued in such grade so long as he continues to hold the same position, notwithstanding the amendment made in section 4107(b) of title 38, United States Code, by section 106(b) of this Act."

ADJUSTMENT OF PAY RATES

Prevention of reductions in pay for any officer or employee of United States by reason of effective date of 1972 Federal pay comparability adjustments, see Pub. L. 93-549, set out as a note under section 5332 of Title 5, Government Organization and Employees.

ADJUSTMENT OF PAY RATES EFFECTIVE OCTOBER 1, 1976

Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43889, set out as a note under section 5332 of Title 5, Government Organization and Employees, provided for an adjustment of pay rates under this section effective Oct. 1, 1976. See Schedule set out below:

	Minimum	*Maximum*
Section 4103 Schedule:		
Chief Medical Director	(single rate)	***$61,015
Deputy Chief Medical Director	(single rate)	**58,531
Associate Deputy Chief Medical Director.	(single rate)	*56,062
Assistant Chief Medical Director	(single rate)	*54,410
Medical Director	*$46,423	*52,611
Director of Nursing Service	*46,423	*52,611
Director of Chaplain Service	*39,629	*50,197
Director of Pharmacy Service	*39,629	*50,197
Director of Dietetic Service	*39,629	*50,197
Director of Optometry	*39,629	*50,197
Physician and Dentist Schedule:		
Director grade	*39,629	*50,197
Executive grade	36,593	*47,573
Chief grade	33,789	*43,923
Senior grade	28,725	37,347
Intermediate grade	24,308	31,598
Full grade	20,442	26,571
Associate grade	17,056	22,177
Nurse Schedule:		
Director grade	33,789	*43,923
Assistant Director grade	28,725	37,347
Chief grade	24,308	31,598
Senior grade	20,442	26,571
Intermediate grade	17,056	22,177
Full grade	14,097	18,327
Associate grade	12,131	15,767
Junior grade	10,370	13,484

*Basic pay is limited by Section 4107(d) of Title 38 of the United States Code to the rate for level V of the Executive Schedule which is, as of the effective date of this schedule, $39,600.

**Basic pay is limited by Section 4107(d) of Title 38 of the United States Code to the rate for level IV of the Executive Schedule which is, as of the effective date of this schedule, $41,800.

***Basic pay is limited by Section 4107(d) of Title 38 of the United States Code to the rate for level III of the Executive Schedule which is, as of the effective date of this schedule, $44,000.

EXECUTIVE ORDER NO. 11413

Ex. Ord. No. 11413, June 11, 1968, 33 F.R. 8641, formerly set out in part under this section, which provided for the adjustment of pay rates effective July 1, 1968, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, set out as a note under section 5332 of Title 5, Government Organization and Employees.

EXECUTIVE ORDER NO. 11474

Ex. Ord. No. 11474, June 16, 1969, 34 F.R. 9605, formerly set out in part under this section, which provided for the adjustment of pay rates effective July 1, 1969, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, set out as a note under section 5332 of Title 5, Government Organization and Employees.

EXECUTIVE ORDER NO. 11524

Ex. Ord. No. 11524, Apr. 15, 1970, 35 F.R. 6247, formerly set out in part under this section, which pro-

vided for the adjustment of pay rates effective first pay period on or after Dec. 27, 1969, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, set out as a note under section 5332 of Title 5, Government Organization and Employees.

EXECUTIVE ORDER No. 11576

Ex. Ord. No. 11576, Jan. 8, 1971, 36 F.R. 347, formerly set out in part under this section, which provided for the adjustment of pay rates effective Jan. 1, 1971, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, set out as a note under section 5332 of Title 5, Government Organization and Employees.

EXECUTIVE ORDER No. 11637

Ex. Ord. No. 11637, Dec. 22, 1971, 36 F.R. 24911, formerly set out in part under this section, which provided for the adjustment of pay rates effective Jan. 1, 1972, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, set out as a note under section 5332 of Title 5, Government Organization and Employees.

EXECUTIVE ORDER No. 11691

Ex. Ord. No. 11691, Dec. 15, 1972, 37 F.R. 27607, formerly set out in part under this section, which provided for the adjustment of pay rates effective Jan. 1, 1973, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, set out as a note under section 5332 of Title 5, Government Organization and Employees.

EXECUTIVE ORDER No. 11739

Ex. Ord. No. 11739, Oct. 3, 1973, 38 F.R. 27581, formerly set out in part under this section, which provided for the adjustment of pay rates effective Oct. 1, 1973, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, set out as a note under section 5332 of Title 5, Government Organization and Employees.

EXECUTIVE ORDER No. 11811

Ex. Ord. No. 11811, Oct. 7, 1975, 39 F.R. 3602, formerly set out as a note under this section, which provided for the adjustment of pay rates effective Oct. 1, 1974, was superseded by Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091, set out as a note under section 5332 of Title 5, Government Organization and Employees.

EXECUTIVE ORDER No. 11883

Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091, formerly set out as a note under this section, which provided for the adjustment of pay rates effective Oct. 1, 1975, was superseded by Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43889, set out as a note under section 5332 of Title 5, Government Organization and Employees.

CROSS REFERENCES

Compensation—
Chief medical director, see section 5314 of Title 5, Government Organization and Employees.
Deputy chief medical director, see section 5315 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4118 of this title.

§ 4108. Personnel administration

(a) Notwithstanding any law, Executive order, or regulation, the Administrator shall prescribe by regulation the hours and conditions of employment and leaves of absence of physicians, dentists, podiatrists, optometrists, nurses, physician assistants, and expanded-function dental auxiliaries appointed to the Department of Medicine and Surgery, except that the hours of employment in carrying out responsibilities under this title of any physician, dentist, podiatrist, optometrist, (other than an intern or resident appointed pursuant to section 4114 of this title), nurse, physician assistant, or expanded-function dental auxiliary appointed on a full-time basis who accepts responsibilities for carrying out professional services for remuneration other than those assigned under this title, shall consist of not less than eighty hours in a biweekly pay period (as that term is used in section 5504 of title 5), and no such person may—

(1) assume responsibility for the medical care of any patient other than a patient admitted for treatment at a Veterans' Administration facility, except in those cases where the person, upon request and with the approval of the Chief Medical Director, assumes such responsibilities to assist communities or medical practice groups to meet medical needs which would not otherwise be available for a period not to exceed one hundred and eighty calendar days, which may be extended by the Chief Medical Director for additional periods not to exceed one hundred and eighty calendar days each;

(2) teach or provide consultative services at any affiliated institution if such teaching or consultation will, because of its nature or duration, conflict with such person's responsibilities under this title;

(3) accept payment under any insurance or assistance program established under subchapter XVIII, or XIX of chapter 7 of title 42, or under chapter 55 of title 10 for professional services rendered by such person while carrying out such person's responsibilities under this title;

(4) accept from any source, with respect to any travel performed by such person in the course of carrying out such person's responsibilities under this title, any payment or per diem for such travel, other than as provided for in section 4111 of title 5;

(5) request or permit any individual or organization to pay, on such person's behalf for insurance insuring such person against malpractice claims arising in the course of carrying out such person's responsibilities under this title or for such person's dues or similar fees for membership in medical or dental societies or related professional associations, except where such payments constitute a part of such person's remuneration for the performance of professional responsibilities permitted under this section, other than those carried out under this title; and

(6) perform, in the course of carrying out such person's responsibilities under this title, professional services for the purpose of generating money for any fund or account which is maintained by an affiliated institution for the benefit of such institution, or for such person's personal benefit, or both, and in the case of any such fund or account established before the effective date of this subsection—

(A) the affiliated institution shall submit semiannually an accounting to the Administrator and to the Comptroller General of the United States with respect to such fund or account, and thereafter shall maintain

such fund or account subject to full public disclosure and audit by the Administrator and the Comptroller General for a period of three years or for such longer period as the Administrator shall prescribe, and

(B) no physician, dentist, podiatrist, optometrist, nurse, physician assistant, or expanded-function dental auxiliary may receive, after the effective date of this subsection, any cash from amounts deposited in such fund or account derived from services performed prior to the effective date of this subsection.

(b) As used in this section, the term "affiliated institution" means any medical school or other institution of higher learning with which the Administrator has a contract or agreement as referred to in section 4112(b) of this title for the training or education of health manpower.

(c) As used in this section, the term "remuneration" means the receipt of any amount of monetary benefit from any non-Veterans' Administration source in payment for carrying out any professional responsibilities.

(Added Pub. L. 93-82, title II, § 204(a), Aug. 2, 1973, 87 Stat. 190, and amended Pub. L. 94-123, § 5(e), Oct. 22, 1975, 89 Stat. 675; Pub. L. 94-581, title I, § 110(7), title II, §§ 205(f), 209(a)(1), (2), (c)(4), 210(c)(5), Oct. 21, 1976, 90 Stat. 2849, 2859, 2860, 2862, 2864.)

REFERENCES IN TEXT

The effective date of this subsection, referred to in subsec. (a)(6), means the effective date of section 204(a) of Pub. L. 93-82, which was effective Sept. 1, 1973.

PRIOR PROVISIONS

A prior section 4108, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1246; Pub. L. 86-568, title I, § 114(g), July 1, 1960, 74 Stat. 301; Pub. L. 87-574, § 3, Aug. 6, 1962, 76 Stat. 308; Pub. L. 87-793, § 803(a), Oct. 11, 1962, 76 Stat. 860, relating to Administration, was repealed by section 204(a) of Pub. L. 93-82.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-581, §§ 110(7), 209(a)(1), (2), (c)(4), 210(c)(5), inserted reference to podiatrists and optometrists, substituted "physician assistants" and "physician assistant" for "physicians' assistants" and "physicians' assistant", respectively, and substituted "expanded-function" for "expanded-duty" in the provisions preceding cl. (1), substituted "person" for "individual" in cl. (1), substituted "such person" for "him" and "such person's" for "his" in cls. (2), (3), (4), (5), and the provisions preceding subcl. (A) of cl. (6), and inserted reference to podiatrist and optometrist, substituted "physician assistant" for "physicians' assistant", and substituted "expanded-function" for "expanded-duty" in subcl. (B) of cl. (6).

Subsec. (b). Pub. L. 94-581, § 205(f), substituted "as referred to in" for "pursuant to".

1975—Subsec. (a). Pub. L. 94-123 in provisions preceding cl. (1), extended the authority of the Administrator to prescribe by regulation the hours and conditions of employment and leaves of absence of physicians' assistants, and expanded-duty dental auxiliaries, substituted "nurse, physicians' assistant, or expanded-duty dental auxiliary appointed on a full-time basis" for "or nurse appointed on a full-time basis", and in cl. (6)(B), substituted "nurse, physicians' assistant, or expanded-duty dental auxiliary may receive" for "or nurse may receive".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-123 effective beginning the first pay period following 30 days after Oct. 22, 1975, see section 6(b) of Pub. L. 94-123, set out as an Effective Date of 1975 Amendment note under section 4104 of this title.

EFFECTIVE DATE

Section effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

§ 4109. Retirement rights

Persons appointed to the Department of Medicine and Surgery shall be subject to the provisions of and entitled to benefits under chapter 83 of title 5.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1246; Pub. L. 93-82, title II, § 205(a), Aug. 2, 1973, 87 Stat. 192.)

AMENDMENTS

1973—Pub. L. 93-82 substituted "chapter 83 of title 5" for "the Civil Service Retirement Act".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

§ 4110. Disciplinary boards

(a) The Chief Medical Director, under regulations prescribed by the Administrator shall from time to time appoint boards to be known as disciplinary boards, each such board to consist of not less than three nor more than five employees, senior in grade, of the Department of Medicine and Surgery, to determine, upon notice and fair hearing, charges of inaptitude, inefficiency, or misconduct of any person employed in a position provided in paragraph (1) of section 4104 of this title. When such charges concern a dentist, the majority of employees on the disciplinary board shall be dentists.

(b) The Administrator shall appoint the chairman and secretary of the board, each of whom shall have authority to administer oaths.

(c) The Chief Medical Director may designate or appoint one or more investigators, to assist each disciplinary board in the collection and presentation of evidence. Any person answering to charges before a disciplinary board may be represented by counsel of his own choosing.

(d) A disciplinary board, when in its judgment charges are sustained, shall recommend to the Administrator suitable disciplinary action, within limitations prescribed by the Administrator, which shall include reprimand, suspension without pay, reduction in grade, and discharge from the Department of Medicine and Surgery of such person. The Administrator shall either approve the recommendation of the board, approve such recommendation with modification or exception, approve such recommendation and suspend further action at the time, or disapprove such recommendation. He

shall cause to be executed such action as he approves. The decision of the Administrator shall be final.

(e) The Administrator, within such limitations as he may prescribe may delegate to the Chief Medical Director the authority vested in him by subsections (b) and (d) of this section to (1) appoint the chairman and secretary of a disciplinary board, such official to have the power prescribed by this section, and (2) receive and act upon the recommendations of such a board. Any person against whom disciplinary action is taken under authority delegated pursuant to this subsection shall have the right to appeal such action to the Administrator, but in the absence of such an appeal the decision of the Chief Medical Director shall have the same force and effect as a decision of the Administrator.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1246; Pub. L. 88-207, Dec. 17, 1963, 77 Stat. 402.)

AMENDMENTS

1963—Subsec. (e). Pub. L. 88-207 added subsec. (e).

§ 4111. Appointment of additional employees

There shall be appointed by the Administrator under civil-service laws, rules, and regulations, such additional employees, other than those provided in section 4103, paragraph (1) of section 4104, and those specified in section 4114 of this title, as may be necessary to carry out the provisions of this chapter.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1247; Pub. L. 87-793, § 804, Oct. 11, 1962, 76 Stat. 861; Pub. L. 89-785, title I, § 108, Nov. 7, 1966, 80 Stat. 1370.)

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (e), are set out in Title 5, Government Organization and Employees. See particularly section 3301 et seq. of that title.

AMENDMENTS

1966—Pub. L. 89-785 eliminated the designation "(a)" which preceded "There shall be appointed", and deleted subsec. (b) which related to the salary rate of individuals serving as directors of hospitals, domiciliaries, or centers who are not physicians.

1962—Subsec. (b). Pub. L. 87-793 substituted "director of a hospital" for "manager of a hospital" in three instances, and "service as a physician in the director grade" for "service as a physician in the medical service in the chief grade".

EFFECTIVE DATE OF 1962 AMENDMENT

Section 804 of Pub. L. 87-793 provided in part that the amendment of subsec. (b) shall be effective on October 11, 1962.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4108 of this title.

§ 4112. Special Medical Advisory Group and Other Advisory Bodies

(a) The Administrator shall establish a special medical advisory group composed of members of the medical, dental, podiatric, optometric, and allied scientific professions, nominated by the Chief Medical Director, whose duties shall be to advise the Administrator, through the Chief Medical Director, and the Chief Medical Director direct, relative to the care and treatment of disabled veterans, and other matters pertinent to the Department of Medicine and Surgery. The special medical advisory group shall meet on a regular basis as prescribed by the Administrator. The number, terms of service, pay, and allowances to members of such advisory group shall be in accord with existing law and regulations.

(b) In each case where the Administrator has a contract or agreement with any school, institution of higher learning, medical center, hospital, or other public or nonprofit agency, institution, or organization, for the training or education of health manpower, the Administrator shall establish an advisory committee (that is, deans committee, medical advisory committee or the like). Such advisory committee shall advise the Administrator and the Chief Medical Director with respect to policy matters arising in connection with, and the operation of, the program with respect to which it was appointed and may be established on an institutionwide, multidisciplinary basis or on a regional basis whenever such is found to be feasible. Members of each such advisory committee shall be appointed by the Administrator and shall include personnel of the Veterans' Administration and of the entity with which the Administrator has entered into such contract or agreement. The number of members and terms of members of each advisory committee shall be prescribed by the Administrator.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1247; Pub. L. 89-785, title I, § 109(a), Nov. 7, 1966, 80 Stat. 1370; Pub. L. 93-82, title II, § 205(b), Aug. 2, 1973, 87 Stat. 192; Pub. L. 94-581, title I, § 110(8), title II, §§ 209(b)(3), 210(c)(6), Oct. 21, 1976, 90 Stat. 2849, 2861, 2864.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-581, §§ 110(8), 209(b)(3), inserted "podiatric, optometric," following "dental," and substituted "pay" for "compensation".

Subsec. (b). Pub. L. 94-581, § 210(c)(6), substituted "the Administrator shall establish" for "he shall establish".

1973—Subsec. (b). Pub. L. 93-82 substituted "training or education of health manpower" for "training or education of health service personnel".

1966—Pub. L. 89-785 substituted "Special Medical Advisory Group and Other Advisory Bodies" for "Medical advisory group" in the catchline, designated existing provisions as subsec. (a) and substituted therein "meet on a regular basis as prescribed by the Administrator" for "conduct regular calendar quarterly meetings", and added subsec. (b).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case

of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4108, 4124, 5055, 5070 of this title.

§ 4113. Travel expenses of employees

The Administrator may pay the expenses, except membership fees, of persons described in section 4103, section 4104(1), and physicians, dentists, podiatrists, optometrists, nurses, physician assistants, and expanded-function dental auxiliaries appointed on a temporary full-time or part-time basis under section 4114 of this title detailed by the Chief Medical Director to attend meetings of associations for the promotion of medical and related science.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1247; Pub. L. 89-785, title I, § 110, Nov. 7, 1966, 80 Stat. 1371; Pub. L. 94-581, title I, § 110(9), title II, § 209(a)(5), (c)(5), Oct. 21, 1976, 90 Stat. 2849, 2860, 2862.)

AMENDMENTS

1976—Pub. L. 94-581 substituted "membership fees, of persons described in section 4103, section 4104(1), and physicians, dentists, podiatrists, optometrists, nurses, physician assistants, and expanded-function dental auxiliaries" for "membership fees, of employees described in section 4103, paragraph (1) of section 4104 and physicians, dentists, and nurses".

1966—Pub. L. 89-785 authorized the payment of expenses, except membership fees, for physicians, dentists, and nurses appointed on a temporary full-time or part-time basis under section 4114.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

§ 4114. Temporary full-time, part-time, and without compensation appointments; residences or internships

(a)(1) The Administrator, upon the recommendation of the Chief Medical Director, may employ, without regard to civil service or classification laws, rules, or regulations—

(A) physicians, dentists, podiatrists, optometrists, nurses, physician assistants, expanded-function dental auxiliaries, dietitians, social workers, librarians, and other professional, clerical, technical, and unskilled personnel (including interns, residents, trainees, and students in medical support programs) on a temporary full-time, part-time, or without compensation basis; and

(B) physicians, dentists, podiatrists, optometrists, nurses, physician assistants, expanded-function dental auxiliaries, and other professional and technical personnel on a fee basis.

(2) Personnel employed under paragraph (1) of this subsection shall be in addition to personnel described in section 4103, paragraph (1) of section 4104, and section 4111 of this title and shall be paid such rates of pay as the Administrator may prescribe.

(3)(A) Temporary full-time appointments of physicians, dentists, podiatrists, optometrists, nurses, physician assistants, and expanded-function dental auxiliaries may exceed ninety days only if the Chief Medical Director finds that circumstances render it impracticable to obtain the necessary services through appointments under paragraph (1) of section 4104 of this title. Temporary full-time appointments of persons who have successfully completed a full course of nursing in a recognized school of nursing, approved by the Administrator, and are pending registration as a graduate nurse in a State, shall not exceed one year. Temporary full-time appointments of other personnel shall not exceed one year.

(B) No part-time appointment shall be for a period of more than one year, except for appointments of physicians, dentists, podiatrists, optometrists, nurses, physician assistants, expanded-function dental auxiliaries, and interns, residents and other trainees in medical support programs.

(b)(1) The Administrator shall have authority to establish residencies and internships; to appoint qualified persons to such positions without regard to civil-service or classification laws, rules, or regulations; and to prescribe the conditions of such employment, including necessary training, and the customary amount and terms of pay (which may be established retroactively based on changes in such customary amount and terms) during the period of such employment and training.

(2) For the purposes of this title, the term "internship" shall include the equivalency of an internship as determined in accordance with regulations which the Administrator shall prescribe, and the term "intern" shall mean a person serving an internship.

(3) In order to carry out more efficiently the provisions of paragraph (1) of this subsection, the Administrator may contract with one or more hospitals, medical schools, or medical installations having hospital facilities and participating with the Veterans' Administration in the training of interns or residents to provide for the central administration of stipend payments, provision of fringe benefits, and maintenance of records for such interns and residents by the designation of one such institution to serve as a central administrative agency for this purpose. The Administrator may pay to such designated agency, without regard to any other law or regulation governing the expenditure of Government moneys either in advance or in arrears, an amount to cover the cost for the period such intern or resident serves in a Veterans' Administration hospital of (A) stipends fixed by the Administrator pursuant to paragraph (1) of this subsection, (B) hospitalization, medical care,

and life insurance, and any other employee benefits as are agreed upon by the participating institutions for the period that such intern or resident serves in a Veterans' Administration hospital, (C) tax on employers pursuant to chapter 21 of the Internal Revenue Code of 1954, where applicable, and in addition, (D) an amount to cover a pro rata share of the cost of expense of such central administrative agency. Any amounts paid by the Administrator to such central administrative agency to cover the cost of hospitalization, medical care, or life insurance or other employee benefits shall be in lieu of any benefits of like nature to which such intern or resident may be entitled under the provisions of title 5, and the acceptance of stipends and employee benefits from the designated central administrative agency shall constitute a waiver by the recipient of any claim such recipient might have to any payment of stipends or employee benefits to which such recipient may be entitled under this title or title 5. Notwithstanding the foregoing, any period of service of any such intern or resident in a Veterans' Administration hospital shall be deemed creditable service for the purposes of section 8332 of title 5. The agreement may further provide that the designated central administrative agency shall make all appropriate deductions from the stipend of each intern and resident for local, State, and Federal taxes, maintain all records pertinent thereto and make proper deposits thereof, and shall maintain all records pertinent to the leave accrued by such intern and resident for the period during which such recipient serves in a participating hospital, including a Veterans' Administration hospital. Such leave may be pooled, and the intern or resident may be afforded leave by the hospital in which such person is serving at the time the leave is to be used to the extent of such person's total accumulated leave, whether or not earned at the hospital in which such person is serving at the time the leave is to be afforded.

(c) When the Chief Medical Director determines that it is not possible to recruit qualified citizens for the necessary services, appointments under this section may be made without regard to the citizenship requirements of section 4105 of this title or of any other law prohibiting the employment of, or payment of compensation to, a person who is not a citizen of the United States.

(d) The Chief Medical Director may waive for the purpose of appointments under this section the requirements of section 4105(a) of this title that the licensure of a physician, dentist, podiatrist, or optometrist, or the registration of a nurse must be in a "State", if—

(1) in the case of a physician, dentist, podiatrist, or optometrist, the person is to be used on a research or an academic post or where there is no direct responsibility for the care of patients; or

(2) in any case, where the person is to serve in a country other than the United States and such person's licensure or registration is in the country in which the person is to serve.

(e) The program of training prescribed by the Administrator in order to qualify a person for the position of full-time physician's assistant or expanded-function dental auxiliary shall be considered a full-time institutional program for purposes of chapter 34 of this title. The Administrator may consider training for such a position to be on a less than full-time basis for purposes of such chapter when the combined classroom (and other formal instruction) portion of the program and the on-the-job training portion of the program total less than 30 hours per week.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1247; Pub. L. 87-574, § 4(2), Aug. 6, 1962, 76 Stat. 309; Pub. L. 89-785, title I, § 111(a)-(c), Nov. 7, 1966, 80 Stat. 1371; Pub. L. 91-496, §§ 1, 3, Oct. 22, 1970, 84 Stat. 1092; Pub. L. 93-82, title II, § 206, Aug. 2, 1973, 87 Stat. 192; Pub. L. 94-581, title I, §§ 109, 110(10), title II, §§ 205(g), 209(a)(6), (c)(6), 210(c)(7), Oct. 21, 1976, 90 Stat. 2848, 2849, 2859, 2860, 2862, 2864.)

REFERENCES IN TEXT

The civil service laws, referred to in subsecs. (a) and (b), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

The classification laws, referred to in subsecs. (a) and (b), are classified generally to chapter 51 (§ 5101 et seq.) and to subchapter III (§ 5331 et seq.) of chapter 53 of Title 5, Government Organization and Employees.

Chapter 21 of the Internal Revenue Code of 1954, referred to in subsec. (b)(3), is set out as chapter 21 (section 3101 et seq.) of Title 26, Internal Revenue Code.

AMENDMENTS

1976—Subsec. (a)(1)(A). Pub. L. 94-581, §§ 110(10)(A), 209(a)(6)(A), inserted "podiatrists, optometrists," following "dentists," and "physician assistants, expanded-function dental auxiliaries," following "nurses,".

Subsec. (a)(1)(B). Pub. L. 94-581, §§ 110(10)(A), 209(a)(6)(A), inserted "podiatrists, optometrists," following "dentists," and "physician assistants, expanded-function dental auxiliaries," following "nurses,".

Subsec. (a)(3)(A). Pub. L. 94-581, §§ 110(10)(A), 209(a)(6)(B), inserted "podiatrists, optometrists," following "dentists," and substituted "nurses, physician assistants, and expanded-function dental auxiliaries" for "and nurses".

Subsec. (a)(3)(B). Pub. L. 94-581, §§ 110(10)(A), 209(a)(6)(C), inserted "podiatrists, optometrists," following "dentists," and substituted "nurses, physician assistants, expanded-function dental auxiliaries, and interns," for "nurses and interns, and".

Subsec. (b)(1). Pub. L. 94-581, § 109, inserted "(which may be established retroactively based on changes in such customary amount and terms)" after "pay".

Subsec. (b)(2). Pub. L. 94-581, § 205(g), substituted "the term 'internship' shall include the equivalency of an internship as determined in accordance with regulations which the Administrator shall prescribe, and the term 'intern' shall mean a person serving an internship" for "the term 'intern' shall include an internship or the equivalency thereof, as determined in accordance with regulations which the Administrator shall prescribe".

Subsec. (b)(3). Pub. L. 94-581, § 210(c)(7)(A), (B), substituted "such recipient" for "he" in three places and "such person" and "such person's" for "he" and "his", respectively, in three places.

Subsec. (d). Pub. L. 94-581, §§ 110(10)(B), 209(c)(6), 210(c)(7) (C), (D), substituted ", dentist, podiatrist, or optometrist" for "or dentist" in the provisions preceding par. (1), substituted ", dentist, podiatrist, or optometrist, the person is to be used" for "or dentist, he is to be used" in par. (1), and substituted "person" for "individual" and "such person's" and "the person" for "his" and "he", respectively, in par. (2).

Subsec. (e). Pub. L. 94-581, § 209(a)(6)(D), substituted "expanded-function dental auxiliary" for "dentist's assistant".

1973—Subsec. (a)(3)(A). Pub. L. 93-82, § 206(1), increased the period for which temporary appointments can be made from ninety days to one year.

Subsec. (b). Pub. L. 93-82, § 206(2), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (e). Pub. L. 93-82, § 206(3), added subsec. (e).

1970—Subsec. (a)(3)(A). Pub. L. 91-496, § 1, added provision limiting to one year temporary full-time appointments of persons who have completed a full course of nursing in a school approved by the Administrator, and are pending registration as a graduate nurse in a State.

Subsec. (d)(1). Pub. L. 91-496, § 3, inserted reference to dentists.

1966—Pub. L. 89-785, § 111(c), substituted "Temporary full-time, part-time, and without compensation appointments" for "Temporary and part-time appointments" in the catchline.

Subsec. (a)(1)(A). Pub. L. 89-785, § 111(a), substituted "full-time, part-time, or without compensation" for "full-time or part-time".

Subsec. (d). Pub. L. 89-785, § 111(b), added subsec. (d).

1962—Pub. L. 87-574, § 4(2)(A), inserted "; residencies and internships" in the section catchline.

Subsec. (a). Pub. L. 87-574, § 4(2)(B), substituted "civil service or classification laws, rules or regulations" for "the Classification Act of 1949", specified "interns, residents, trainees, and students in medical support programs" among those who can be appointed on a temporary full-time or part-time basis, authorized the appointment of "other professional and technical personnel" on a fee basis, temporary full-time appointments of physicians, dentists and nurses to exceed 90 days if the Chief Medical Director finds it impracticable to obtain necessary services through career appointments, and limited part-time appointments to one year, except for physicians, dentists, nurses and interns, and residents and other trainees in medical support programs.

Subsec. (c). Pub. L. 87-574, § 4(2)(C), added subsec. (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581 set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4105, 4108, 4111, 4113 of this title; title 5 section 5102.

§ 4115. Regulations

The Chief Medical Director with the approval of the Administrator, unless specifically otherwise provided, shall promulgate all regulations necessary to the administration of the Department of Medicine and Surgery and consistent with existing law, including regulations relating to travel, transportation of household goods and effects, and deductions from pay for quarters and subsistence; and to the custody, use, and preservation of the records, papers, and property of the Department of Medicine and Surgery.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1248.)

§ 4116. Defense of certain malpractice and negligence suits

(a) The remedy—

(1) against the United States provided by sections 1346(b) and 2672 of title 28, or

(2) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of title 28,

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, podiatrist, optometrist, nurse, physician assistant, expanded-function dental auxiliary pharmacist, or paramedical (for example, medical and dental technicians, nursing assistants, and therapists) or other supporting personnel in furnishing medical care or treatment while in the exercise of such person's duties in or for the Department of Medicine and Surgery shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, podiatrist, optometrist, nurse, physician assistant, expanded-function dental auxiliary pharmacist, or paramedical or other supporting personnel (or such person's estate) whose act or omission gave rise to such claim.

(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or such person's estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person's immediate superior or to whomever was designated by the Administrator to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Administrator.

(c) Upon a certification by the Attorney General that the defendant was acting in the scope of such person's employment in or for the Department of Medicine and Surgery at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. After removal the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the employee whose act or omission gave rise to the suit was not acting within the scope of such person's office or employment, the case shall be remanded to the State court.

(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect.

(e) The Administrator may, to the extent the Administrator deems appropriate, hold harmless or provide liability insurance for any person to whom the immunity provisions of this section apply (as directed in subsection (a) of this section), for damage for personal injury or death, or for property damage, negligently caused by such person while furnishing medical care or treatment (including the conduct of clinical studies or investigations) in the exercise of such person's duties in or for the Department of Medicine and Surgery, if such person is assigned to a foreign country, detailed to State or political division thereof, or is acting under any other circumstances which would preclude the remedies of an injured third person against the United States, provided by sections 1346(b) and 2672 of title 28, for such damage or injury.

(Added Pub. L. 89-311, § 6(a), Oct. 31, 1965, 79 Stat. 1156, and amended Pub. L. 89-506, § 5(b), July 18, 1966, 80 Stat. 307; Pub. L. 93-82, title II, § 207, Aug. 2, 1973, 87 Stat. 193; Pub. L. 94-581, title I, § 110(11), title II, §§ 209(a)(7), 210(c)(8), Oct. 21, 1976, 90 Stat. 2849, 2861, 2864.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-581, §§ 110(11), 209(a)(7), 210(c)(8)(A), inserted "podiatrist, optometrist," following "dentist," in two places, substituted "physician assistant" for "physicians' assistant" and "expanded-function dental auxiliary" for "dentists' assistant" in two places, and substituted "such person's duties" for "his duties", and "such person's estate" for "his estate".

Subsec. (b). Pub. L. 94-581, § 210(c)(8)(B), substituted "such person" and "such person's" for "him" and "his", respectively.

Subsec. (c). Pub. L. 94-581, § 210(c)(8)(C), substituted "such person's" for "his" in two places.

Subsec. (e). Pub. L. 94-581, § 210(c)(8)(D), substituted "the Administrator deems" for "he deems" and "such person's duties" for "his duties".

1973—Subsec. (a). Pub. L. 93-82, § 207(1), extended protection to cases where Federal Tort Claims actions would not lie, but actions could still be brought against Veterans' Administration employee personally for actions arising in the exercise of his duties, and added reference to physicians' assistants and dentists' assistants.

Subsec. (c). Pub. L. 93-82, § 207(2), substituted provisions that after removal to the federal district court, the United States shall have all defenses to which it would have been entitled if the action was originally commenced against the United States and that should the court find that the employee whose act or omission gave rise to the suit was not acting within the scope of his office or employment, the case be remanded to the state court, for provisions that should the district court determine that the case was one in which a remedy under subsec. (a) of this section was not available, the case be remanded to the state court.

Subsec. (e). Pub. L. 93-82, § 207(3), added subsec. (e).

1966—Subsec. (a). Pub. L. 89-506 inserted reference to section 2672 of title 28 and substituted reference simply to "remedy" for reference to "remedy by suit".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-506 applicable to claims accruing six months or more after July 18, 1966, see section 10 of Pub. L. 89-506, set out as an Effective Date of 1966 Amendment note under section 2672 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section 6(c) of Pub. L. 89-311 provided that: "The amendments made by this section [adding this section] shall take effect on the first day of the first calendar month which begins more than one hundred and eighty days after the date of enactment of this Act [Oct. 31, 1965], but, in the case of an act or omission which occurred before such effective date, such amendments shall apply only if no suit or civil action has been commenced before such effective date with respect to such act or omission."

§ 4117. Contracts for scarce medical specialist services

The Administrator may enter into contracts with schools and colleges of medicine, osteopathy, dentistry, podiatry, optometry, and nursing, clinics, and any other group or individual capable of furnishing such services to provide scarce medical specialist services at Veterans' Administration facilities (including, but not limited to, services of physicians, dentists, podiatrists, optometrists, nurses, physician assistants, expanded-function dental auxiliaries technicians, and other medical support personnel).

(Added Pub. L. 89-785, title I, § 112(a), Nov. 7, 1966, 80 Stat. 1371, and amended Pub. L. 93-82, title II, § 208, Aug. 2, 1973, 87 Stat. 194; Pub. L. 94-581, title I, § 110(12), title II, § 209(a)(1), (8), Oct. 21, 1976, 90 Stat. 2849, 2860, 2861.)

AMENDMENTS

1976—Pub. L. 94-581 substituted "schools and colleges of medicine, osteopathy, dentistry, podiatry, optometry, and nursing," for "medical schools," inserted "podiatrists, optometrists," following "dentists,", and substituted "physician assistants" for "physicians' assistants" and "expanded-function dental auxiliaries" for "dentists' assistants".

1973—Pub. L. 93-82 extended the authority of the Administrator to enter into contracts with any group or individual capable of furnishing the required services, and substituted "physicians, dentists, nurses, physicians' assistants, dentists' assistants, technicians, and other medical support personnel" for "radiologists, pathologists, and psychiatrists".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

§ 4118. Special pay for physicians and dentists

(a)(1) Notwithstanding the provisions of section 4107(d) or any other provision of law, in

order to recruit and retain highly qualified physicians and dentists in the Department of Medicine and Surgery, the Administrator, pursuant to the provisions of this section and regulations which he shall prescribe hereunder, shall provide, in addition to any pay or allowance to which such physician or dentist is entitled, special pay in an amount not more than (A) $13,500 per annum to any physician employed in the Department of Medicine and Surgery, or (B) $6,750 per annum to any dentist so employed, except as provided in paragraphs (2) and (3) of this subsection, upon the execution, and for the duration of, a written agreement by such physician or dentist to complete a specified number of years of service in the Department.

(2) Special pay may not be paid under this section to any physician or dentist who—

(A) is employed on less than a half-time or intermittent basis,

(B) occupies an internship or residency training position, or

(C) is a reemployed annuitant.

(3) The Chief Medical Director, pursuant to such regulations, may determine categories of positions applicable to both physicians and dentists in the Department of Medicine and Surgery as to which there is no significant recruitment and retention problem. Physicians and dentists serving in such positions shall not be eligible for special pay under this section.

(b) The Administrator shall exercise the authority contained in this section to provide—

(1) the maximum amount of such special pay to the Chief Medical Director and Deputy Chief Medical Director;

(2) primary special pay of $5,000 to any eligible full-time physician, or $2,500 to any eligible full-time dentist, appointed under this chapter; and

(3) a proportional amount of primary special pay of $5,000 to any eligible part-time physician, or of $2,500 to any eligible part-time dentist, appointed under this chapter, which proportional amount shall be calculated on the basis of the proportion which the part-time employment in the Department of Medicine and Surgery of such physician or dentist bears to full-time employment.

(c) The Administrator shall, in accordance with such regulations, provide, in addition to the primary special pay provided for in subsection (b) of this section, incentive special pay of no more than $8,500 to any eligible physician, or $4,250 to any eligible dentist, described in clauses (2) and (3) of subsection (b) of this section. In prescribing regulations to carry out this subsection, the Administrator shall take into account only the following factors and may pay no more than the following per annum amounts of incentive special pay to any full-time physician eligible therefor, one-half the following per annum amounts to any full-time dentist eligible therefor (except that the full amount as specified in clause (1)(A)(iii) may be paid), or a proportional amount of the following per annum amounts to any part-time physician or dentist to the extent eligible therefor which proportional amount shall be calculated on the basis of the proportion which the part-time employment in the Department of Medicine and Surgery of such physician or dentist bears to full-time employment:

(1)(A)(i) full time status, $2,000, and

(ii) tenure of service within the Department of Medicine and Surgery as follows:

(aa) completion of probationary period or three years, whichever is the lesser, $1,000, or

(bb) completion of seven years, $2,000; and

(iii) scarcity of medical or dental specialty, $2,000; or

(B) professional responsibility as follows:

(i) Service Chief not in a scarce medical or dental specialty or Associate Chief of Staff, $5,500,

(ii) Service Chief in a scarce medical or dental specialty, $7,000,

(iii) Chief of Staff or Executive Grade, $7,000,

(iv) Director Grade or Deputy Service Director, $7,250,

(v) Service Director, $7,500,

(vi) Deputy Assistant Chief Medical Director, $8,000, or

(vii) Associate Deputy Chief Medical Director or Assistant Chief Medical Director, $8,500; and

(2) continuing education certification, $500.

(d)(1) The annual rate of special pay provided pursuant to this section shall be reduced by an amount calculated as of the effective date of an agreement entered into under this section, as follows: the difference between the annual rate of basic pay for the grade and step of a physician or dentist in effect and payable on the day before the effective date of this section and the annual rate of basic pay in effect and payable on such effective date for such grade and step.

(2) No part-time physician may be paid an aggregate amount of basic pay, pursuant to the rates applicable on the effective date of this section to physicians employed under this title, and special pay under this section in excess of $42,000 per annum, and no part-time dentist may be paid an aggregate amount of basic pay, pursuant to the rates applicable on the effective date of this section to dentists employed under this title, and special pay under this section in excess of $37,000 per annum.

(e)(1) Any agreement entered into by a physician or dentist under this section shall be with respect to a period of one year of service in the Department of Medicine and Surgery unless the physician or dentist requests an agreement for a longer period of service not to exceed four years.

(2)(A) Any such agreement shall provide that the physician or dentist, in the event that such physician or dentist voluntarily, or because of misconduct, fails to complete at least one year of service pursuant to such agreement, shall be required to refund the total amount received under this section, unless the Chief Medical Director, pursuant to the regulations prescribed under this section, determines that such failure is necessitated by circumstances beyond the control of the physician or dentist.

(B) Any such agreement shall specify the terms under which the Veterans' Administra-

tion and the physician or dentist may elect to terminate such agreement.

(3) Any amount of special pay payable under this section shall be paid in biweekly installments.

(4)(A) Any physician or dentist who is employed in the Department of Medicine and Surgery on or before the effective date of this section and who enters into an agreement under this section during the forty-five-day period beginning on the date of the enactment of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 is entitled to special pay beginning on the effective date of this section.

(B) Any physician or dentist who becomes employed in the Department of Medicine and Surgery after the effective date of this section and who enters into an agreement under this section before the close of the forty-five-day period beginning on the date of the enactment of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 is entitled to special pay beginning on the date on which the physician or dentist becomes employed.

(C) Any physician or dentist who becomes employed in the Department fo Medicine and Surgery after the close of the forty-five-day period beginning on the date of the enactment of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, or who does not enter into any agreement under this section before the close of such 45-day period, and who thereafter enters into an agreement under this section is entitled to special pay beginning on the date on which the agreement is entered into, or the date on which the physician or dentist becomes employed, whichever date is later.

(f) Any additional compensation provided as special pay under this section shall not be considered as basic pay for the purposes of subchapter VI and section 5595 of chapter 55, chapter 81, 83, or 87 of title 5, or other benefits related to basic pay.

(Added Pub. L. 94-123, § 2(d)(1), Oct. 22, 1975, 89 Stat. 670.)

REFERENCES IN TEXT

The effective date of this section, referred to in subsecs. (d)(e)(4)(A), (B), means the effective date of section 2 of Pub. L. 94-123, which is Oct. 12, 1975.

The date of enactment of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, referred to in subsec. (e)(4), is the date of enactment of Pub. L. 94-123, which was approved on Oct. 22, 1975.

EFFECTIVE DATE

Section 6(a)(1) of Pub. L. 94-123 provided that: "The amendments made by section 2 of this Act [enacting this section, amending section 4107 of this title and sections 5314 and 5315 of Title 5, Government Organization and Employees, and enacting provisions set out as a note under this section] shall become effective on October 12, 1975."

CONGRESSIONAL FINDINGS AND DECLARATIONS OF PURPOSE

Section 2(a) of Pub. L. 94-123 provided that: "The Congress hereby finds and declares (1) that the ceiling on the salary of physicians employed in the Department of Medicine and Surgery due to the Federal salary limitation under the Executive Schedule rates of pay in title 5, United States Code [set out in section 5311 et seq. of Title 5, Government Organization and Employees], accompanied by the sharp escalation in the cost of living since those rates of pay were last increased in 1969, has seriously impaired the recruitment and retention of qualified physicians by the Department of Medicine and Surgery in the Veterans' Administration; and (2) that the compensation provided to physicians and dentists in the Department of Medicine and Surgery has been rendered noncompetitive by virtue of the payment of special pay of up to $13,500 per annum, in addition to basic compensation and other benefits, to certain medical officers, and monthly special and continuation pay cumulating approximately half such amount to certain dental officers, of the uniformed services, pursuant to title 37 of the United States Code and Public Law 93-274 [which enacted sections 302b and 313 of Title 37, Pay and Allowances of the Uniformed Services, and amended sections 302 and 311 of title 37]. The Congress further finds and declares that these recruitment and retention difficulties have created an inequitable and demoralizing situation in the Department of Medicine and Surgery that threatens to erode seriously the ability of the Department to compete for the services of necessary health care professionals and thereby to continue to provide quality health care eligible to veterans."

REVIEW OF SPECIAL PAY PROGRAM; REPORTS TO CONGRESSIONAL COMMITTEES

Section 3 of Pub. L. 94-123 provided that:

"The Administrator of Veterans' Affairs shall submit a report each year to the Committees on Veterans' Affairs of the House of Representatives and the Senate regarding the operation of the special pay program authorized by section 4118 of title 38, United States Code, as added by section 2(d)(1) of this Act [this section]. The report shall be on a fiscal year basis and shall contain—

"(1) a review of the program to date for the fiscal year during which the report is submitted and for such portion of the preceding fiscal year as was not included in the previous annual report; and

"(2) any plan in connection with the program for the remainder of such fiscal year and for the succeeding fiscal year.

This report shall be submitted no later than April 30 of each year."

RECRUITMENT, RETENTION, PAY, AND ALLOWANCES OF PHYSICIANS AND DENTISTS; REPORTS TO CONGRESSIONAL COMMITTEES

Section 4 of Pub. L. 94-123 required the Comptroller General of the United States and the Director of the Office of Management and Budget, in consultation with the Administrator of Veterans' Affairs, the Secretaries of Defense and Health, Education, and Welfare, Chairman of the Civil Service Commission, and heads of appropriate Federal departments and agencies, to submit a report to Congress no later than Aug. 31, 1976, which report was to include, an investigation of the long and short term problems facing the Federal government in recruiting and retaining qualified physicians and dentists, an evaluation of the extent to which implementation of the uniform system of pay, allowances, and benefits would alleviate or solve these problems, suggested legislative and administrative courses and the cost evaluation thereof, a comprehensive analysis of existing laws and regulations regarding recruitment and retention of physicians and dentists, the existing recruitment, selection utilization and promotion practices of the Federal government and a comparison of rates of pay between physicians and dentists employed by the Federal government and those in private practice, required the Comptroller General in consultation with the Chief Medical Director of the Veterans' Administration, and heads of appropriate Federal departments and agencies, to submit a report to Congress, no later than March 1, 1977,

which report was to analyze and investigate the recruitment and retention problems, both nationwide and geographically, of health care personnel other than physicians and dentists in the Department of Medicine and Surgery and suggest legislative and administrative course of action designed to alleviate and solve these problems and the cost estimate thereof, and required the Administrator of Veterans' Affairs to submit reports to the appropriate Congressional committees, no later than one hundred and twenty days after Aug. 31, 1976 and Mar. 1, 1977, specifying the effect on the Administration of the recommended courses of action in alleviating or solving the problems of recruitment and retention of physicians and dentists.

SPECIAL PAY AGREEMENTS

Section 6(a)(2) of Pub. L. 94-123, as amended by Pub. L. 94-581, title I, § 112, Oct. 21, 1976, 90 Stat. 2852, provided that: "No agreement to provide special pay may be entered into pursuant to section 4118 of title 38, United States Code (as added by section 2(d)(1) of this Act) after September 30, 1977."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4131, 4132, 4133 of this title.

SUBCHAPTER II—REGIONAL MEDICAL EDUCATION CENTERS

§ 4121. Designation of Regional Medical Education Centers

(a) In carrying out the Administrator's functions under section 4101 of this title with regard to the training of health manpower, the Administrator shall implement a pilot program under which the Administrator shall designate as Regional Medical Education Centers such Veterans' Administration hospitals as the Administrator determines appropriate to carry out the provisions of this subchapter in geographically dispersed areas of the United States.

(b) Each Regional Medical Education Center (hereinafter in this subchapter referred to as "Center") designated under subsection (a) of this section shall provide in-residence continuing medical and related education programs for medical and health personnel eligible for training under this subchapter, including (1) the teaching of newly developed medical skills and the use of newly developed medical technologies and equipment, (2) advanced clinical instruction, (3) the opportunity for conducting clinical investigations, (4) clinical demonstrations in the utilization of new types of health personnel and in the better utilization of the skills of existing health personnel, and (5) routine verification of basic medical skills and, where determined necessary, remediation of any deficiency in such skills.

(Added Pub. L. 92-541, § 3(a), Oct. 24, 1972, 86 Stat. 1107, and amended Pub. L. 94-581, title II, § 210(c)(9), Oct. 21, 1976, 90 Stat. 2864.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-581 substituted "the Administrator's" for "his" and "the Administrator" for "he" in two places.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

SHORT TITLE

For Short Title of Pub. L. 92-541, Oct. 24, 1972, 86 Stat. 1101, which enacted this subchapter, see Short Title of 1972 Amendments note set out under section 101 of this title.

§ 4122. Supervision and staffing of Centers

(a) Centers shall be operated under the supervision of the Chief Medical Director and staffed with personnel qualified to provide the highest quality instruction and training in various medical and health care disciplines.

(b) As a means of providing appropriate recognition to persons in the career service of the Department of Medicine and Surgery who possess outstanding qualifications in a particular medical or health care discipline, the Chief Medical Director shall from time to time and for such period as the Chief Medical Director deems appropriate assign such persons to serve as visiting instructors at Centers.

(c) Whenever the Chief Medical Director deems it necessary for the effective conduct of the program provided for under this subchapter, the Chief Medical Director is authorized to contract for the services of highly qualified medical and health personnel from outside the Veterans' Administration to serve as instructors at such Centers.

(Added Pub. L. 92-541, § 3(a), Oct. 24, 1972, 86 Stat. 1107, and amended Pub. L. 94-581, title II, §§ 209(c)(7), 210(c)(10), Oct. 21, 1976, 90 Stat. 2862, 2864.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-581, §§ 209(c)(7), 210(c)(10), substituted "persons" for "individuals" and "the Chief Medical Director deems" for "he deems".

Subsec. (c). Pub. L. 94-581, § 210(c)(10), substituted "the Chief Medical Director deems" for "he deems".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

§ 4123. Personnel eligible for training

The Chief Medical Director shall determine the manner in which personnel are to be selected for training in the Centers. Preference shall be given to career personnel of the Department of Medicine and Surgery. To the extent that facilities are available, other medical and health personnel shall, on a fully reimbursable basis, be eligible for in-residence training in the Centers. Any proceeds to the Government received therefrom shall be credited to the applicable Veterans' Administration medical appropriation.

(Added Pub. L. 92-541, § 3(a), Oct. 24, 1972, 86 Stat. 1107, and amended Pub. L. 94-581, title I, § 113, Oct. 21, 1976, 90 Stat. 2852.)

AMENDMENTS

1976—Pub. L. 94-581 directed that proceeds to the Government be credited to the applicable Veterans' Administration medical appropriation.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an

Effective Date of 1976 Amendment note under section 111 of this title.

§ 4124. Consultation

The Chief Medical Director shall carry out the provisions of this subchapter after consultation with the special medical advisory group established pursuant to section 4112(a) of this title.

(Added Pub. L. 92-541, § 3(a), Oct. 24, 1972, 86 Stat. 1108.)

SUBCHAPTER III—PROTECTION OF PATIENT RIGHTS

§ 4131. Informed consent

The Administrator, upon the recommendation of the Chief Medical Director and pursuant to the provisions of section 4134 of this title, shall prescribe regulations establishing procedures to ensure that all medical and prosthetic research carried out and, to the maximum extent practicable, all patient care furnished under this title shall be carried out only with the full and informed consent of the patient or subject or, in appropriate cases, a representative thereof.

(Added Pub. L. 94-581, title I, § 111(a)(1), Oct. 21, 1976, 90 Stat. 2849.)

EFFECTIVE DATE

Section effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4134 of this title.

§ 4132. Confidentiality of certain medical records

(a) Records of the identity, diagnosis, prognosis, or treatment of any patient or subject which are maintained in connection with the performance of any program or activity (including education, training, treatment, rehabilitation, or research) relating to drug abuse, alcoholism or alcohol abuse, or sickle cell anemia which is carried out by or for the Veterans' Administration under this title shall, except as provided in subsection (e) of this section, be confidential, and (section 3301 of this title to the contrary notwithstanding) such records may be disclosed only for the purposes and under the circumstances expressly authroized under subsection (b) of this section.

(b)(1) The content of any record referred to in subsection (a) of this section may be disclosed by the Administrator in accordance with the prior written consent of the patient or subject with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed in regulations prescribed by the Administrator pursuant to section 4134 of this title.

(2) Whether or not any patient or subject, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives written consent, the content of such record may be disclosed by the Administrator as follows:

(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient or subject in any report of such research, audit, or evaluation, or otherwise disclose patient or subject identities in any manner.

(C) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient or subject, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

(3) In the event that the patient or subject who is the subject of any record referred to in subsection (a) of this section is deceased, the content of any such record may be disclosed by the Administrator only upon the prior written request of the next of kin, executor, administrator, or other personal representative of such patient or subject and only if the Administrator determines that such disclosure is necessary for such survivor to obtain benefits to which such survivor may be entitled, including the pursuit of legal action, but then only to the extent, under such circumstances, and for such purposes as may be allowed in regulations prescribed pursuant to section 4134 of this title.

(c) Except as authorized by a court order granted under subsection (b)(2)(C) of this section, no record referred to in subsection (a) of this section may be used to initiate or substantiate any criminal charges against, or to conduct any investigation of, a patient or subject.

(d) The prohibitions of this section shall continue to apply to records concerning any person who has been a patient or subject, irrespective of whether or when such person ceases to be a patient.

(e) The prohibitions of this section shall not prevent any interchange of records—

(1) within and among those components of the Veterans' Administration furnishing health care to veterans, or determining eligibility for benefits under this title; or

(2) between such components furnishing health care to veterans and the Armed Forces.

(f) Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

(Added Pub. L. 94-581, title I, § 111(a)(1), Oct. 21, 1976, 90 Stat. 2849.)

EFFECTIVE DATE

Section effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 653, 4134 of this title.

§ 4133. Nondiscrimination in the admission of alcohol and drug abusers to Veterans' Administration health care facilities

Veterans eligible for treatment under chapter 17 of this title who are alcohol or drug abusers and who are suffering from medical disabilities shall not be discriminated against in admission or treatment, solely because of their alcohol or drug abuse or dependence, by any Veterans' Administration health care facility. The Administrator, pursuant to the provisions of section 4134 of this title, shall prescribe regulations for the enforcement of this nondiscrimination policy with respect to the admission and treatment of such eligible veterans who are alcohol or drug abusers.

(Added Pub. L. 94-581, title I, § 111(a)(1), Oct. 21, 1976, 90 Stat. 2850.)

EFFECTIVE DATE

Section effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4134 of this title.

§ 4134. Coordination; reports

(a) Regulations prescribed pursuant to section 4131 of this title, section 4132 of this title with respect to the confidentiality of alcohol and drug abuse medical records, and section 4133 of this title, shall, to the maximum extent feasible consistent with other provisions of this title, make applicable the regulations governing—

(1) human experimentation and informed consent prescribed by the Secretary of Health, Education, and Welfare, based on the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, established by section 201 of the National Research Act, as amended (Public Law 93-348; 88 Stat. 348), and

(2)(A) the confidentiality of drug and alcohol abuse medical records, and (B) the admission of drug and alcohol abusers to private and public hospitals, prescribed pursuant to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended (42 U.S.C. 4551 et seq.), and the Drug Abuse Office and Treatment Act of 1972, as amended (21 U.S.C. 1101 et seq.),

to the conduct of research and to the provision of hospital care, nursing home care, domiciliary care, and medical services under this title. Such regulations may contain such definitions, and may provide for such safeguards and procedures (including procedures and criteria for the issuance and scope of court orders under section 4132(b)(2)(C) of this title) as are necessary to prevent circumvention or evasion thereof, or to facilitate compliance therewith. In prescribing and implementing regulations pursuant to this subsection, the Administrator shall, from time to time, consult with the Secretary of Health, Education, and Welfare, and, as appropriate, the Director of the Office of Drug Abuse Policy (or any successor authority), in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they and the Administrator prescribe.

(b) Not later than sixty days after the effective date of this subsection, the Administrator shall submit to the appropriate committees of the House of Representatives and the Senate a full report with respect to the regulations (including guidelines, policies, and procedures thereunder) prescribed pursuant to subsection (a) of this section. Such report shall include (1) an explanation of any inconsistency between such regulations and the regulations of the Secretary referred to in such subsection (a); (2) an account of the extent, substance, and results of consultations with the Secretary (or Director, as appropriate) respecting the prescribing and implementation of the Administrator's regulations; and (3) such recommendations for legislation and administrative actions as the Administrator determines are necessary and desirable. The Administrator shall timely publish such report in the Federal Register.

(Added Pub. L. 94-581, title I, § 111(a)(1), Oct. 21, 1976, 90 Stat. 2851.)

REFERENCES IN TEXT

Section 201 of the National Research Act, as amended, (Public Law 93-348; 88 Stat. 348), referred to in subsec. (a)(1), is section 201 of Pub. L. 93-348, July 12, 1974, 88 Stat. 348, which is set out as a note under section 289*l*-1 of Title 42, The Public Health and Welfare.

The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended (42 U.S.C. 4551 et seq.), referred to in subsec. (a)(2), is Pub. L. 91-616, Dec. 31, 1970, 84 Stat. 1848, as amended, which is classified principally to chapter 60 (§ 4541 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4541 of Title 42 and Tables volume.

The Drug Abuse Office and Treatment Act of 1972, as amended (21 U.S.C. 1101 et seq.), referred to in subsec. (a)(2), is Pub. L. 92-255, Mar. 21, 1972, 86 Stat. 65, as amended, which is classified principally to chapter 16 (§ 1101 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 21 and Tables volume.

The effective date of this subsection, referred to in subsec. (b), means the effective date of section 111(a)(1) of Pub. L. 94-581, which is Oct. 21, 1976.

EFFECTIVE DATE

Section effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

TERMINATION OF COMMISSION

For provisions as to Termination of the National Commission for the Protection of Human Subjects of Biochemical and Behavioral Research, see section 204 (d) and (e) set out as a note under section 289*l*-1 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4107 of this title; title 5 section 5102.

CHAPTER 75—VETERANS' CANTEEN SERVICE

Sec.
4201. Purpose of Veterans' Canteen Service.
4202. Duties of Administrator with respect to Service.
4203. Operation of Service.
4204. Financing of Service.
4205. Revolving fund.
4206. Budget of Service.
4207. Audit of accounts.
4208. Service to be independent unit.

§ 4201. Purpose of Veterans' Canteen Service

The Veterans' Canteen Service (hereafter in this chapter referred to as the "Service") in the Veterans' Administration is an instrumentality of the United States, created for the primary purpose of making available to veterans of the Armed Forces who are hospitalized or domiciled in hospitals and homes of the Veterans' Administration, at reasonable prices, articles of merchandise and services essential to their comfort and well-being.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1248.)

§ 4202. Duties of Administrator with respect to Service

The Administrator shall—

(1) establish, maintain, and operate canteens where deemed necessary and practicable at hospitals and homes of the Veterans' Administration and at other Veterans' Administration establishments where similar essential facilities are not reasonably available from outside commercial sources;

(2) establish, maintain, and operate such warehouses and storage depots as may be necessary in operating the canteens;

(3) furnish the Service for its use in connection with the establishment, maintenance, and operation thereof, such space, buildings, and structures under control of the Veterans' Administration as the Administrator may consider necessary, including normal maintenance and repair service thereon. Reasonable charges, to be determined by the Administrator, shall be paid annually by the Service for the space, buildings, and structures so furnished, except that the Administrator may reduce or waive such charges whenever payment of such charges would impair the working capital required by the Service;

(4) transfer to the Service without charge, rental, or reimbursement such necessary equipment as may not be needed for other purposes, and furnish the Service such services and utilities, including light, water, and heat, as may be available and necessary for its use. Reasonable charges, to be determined by the Administrator, shall be paid annually by the Service for the utilities so furnished;

(5) employ such persons as are necessary for the establishment, maintenance, and operation of the Service, and pay the salaries, wages, and expenses of all such employees from the funds of the Service. Personnel necessary for the transaction of the business of the Service at canteens, warehouses, and storage depots shall be appointed, compensated from funds of the Service, and removed by the Administrator without regard to civil-service laws and the Classification Act of 1949. Such employees shall be subject to the Veterans' Preference Act of 1944, the Civil Service Retirement Act, and laws administered by the Bureau of Employees' Compensation applicable to civilian employees of the United States;

(6) make all necessary contracts or agreements to purchase or sell merchandise, fixtures, equipment, supplies, and services, without regard to section 5 of title 41 and to do all things necessary to carry out such contracts or agreements, including the making of necessary adjustments and compromising of claims in connection therewith;

(7) fix the prices of merchandise and services in canteens so as to carry out the purposes of this chapter;

(8) accept gifts and donations of merchandise, fixtures, equipment, and supplies for the use and benefit of the Service;

(9) make such rules and regulations, not inconsistent with the provisions of this chapter, as the Administrator considers necessary or appropriate to effectuate its purposes;

(10) delegate such duties and powers to employees as the Administrator considers necessary or appropriate, whose official acts performed within the scope of the delegated authority shall have the same force and effect as though performed by the Administrator;

(11) authorize the use of funds of the Service when available, subject to such regulations as the Administrator may deem appropriate, and without regard to the provisions of sections 521 and 543 of title 5, for the purpose of cashing checks, money orders, and similar instruments in nominal amounts for the payment of money presented by veterans hospitalized or domiciled at hospitals and homes of the Veterans' Administration, and by other persons authorized by section 4203 of this title to make purchases at canteens. Such checks, money orders, and other similar instruments may be cashed outright or may be accepted, subject to strict administrative controls, in payment for merchandise or services, and the difference between the amount of the purchase and the amount of the tendered instrument refunded in cash.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1248; Pub. L. 86-109, § 1, July 28, 1959, 73 Stat. 258; Pub. L. 94-581, title II, § 210(d), Oct. 21, 1976, 90 Stat. 2864.)

REFERENCES IN TEXT

The civil service laws, referred to in par. (5), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

The Classification Act of 1949, referred to in par. (5), is act Oct. 28, 1949, ch. 782, 63 Stat. 972, as amended. The Classification Act of 1949 was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 632, and reenacted by the first section thereof as chapter 51 (§ 5101 et seq.) and subchapter III (§ 5331 et seq.) of chapter 53 of Title 5, Government Organization and Employees.

The Veterans' Preference Act of 1944, referred to in par. (5), is act June 27, 1944, ch. 287, 58 Stat. 387, as amended, which was repealed and the provisions thereof reenacted as sections 1302(b), (c), 2108, 3305(b), 3306(a)(2), 3308 to 3318, 3319(b), 3320, 3351,

3363, 3364, 3501 to 3504, 7511, 7512, and 7701 of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

The Civil Service Retirement Act, referred to in par. (5), is act May 29, 1930, ch. 349, 46 Stat. 468, as amended by act July 31, 1956, ch. 804, § 401, 70 Stat. 743, which was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 632, and reenacted by the first section thereof as subchapter III (§ 8331 et seq.) of chapter 83 of Title 5, Government Organization and Employees.

Sections 521 and 543 of title 5, referred to in par. (11), mean sections 521 and 543 of former Title 5, Executive Departments and Government Officers and Employees, which were transferred to sections 2217 and 2240 of Title 7, Agriculture, pursuant to the general revision and reenactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1976—Pars. (3), (9), (10), (11). Pub. L. 94-581 substituted "the Administrator" for "he" in pars. (3), (9), (10), and (11).

1959—Par. (3). Pub. L. 86-109 required the Service to pay reasonable charges, as determined by the Administrator, for the use of space, buildings, and structures furnished by the Veterans' Administration and authorized reduction of waiver of the charges when payment thereof would impair the working capital required by the Service.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Section 2 of Pub. L. 86-109 provided that: "This Act [amending par. (3) of this section] shall take effect on the first day of July 1959."

TRANSFER OF FUNCTIONS

The functions of the Bureau of Employees' Compensation were absorbed by the Employment Standards Administration in the Department of Labor on Mar. 13, 1972.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 5102.

§ 4203. Operation of Service

(a) The canteens at hospitals and homes of the Veterans' Administration shall be primarily for the use and benefit of veterans hospitalized or domiciled at such hospitals and homes. Service at such canteens may also be furnished to personnel of the Veterans' Administration and recognized veterans' organizations employed at such hospitals and homes and to other persons so employed, to the families of all the foregoing persons who reside at the hospital or home concerned, and to relatives and other persons while visiting any of the persons named in this subsection; however, service to any person not hospitalized, domiciled, or residing at the hospital or home shall be limited to the sale of merchandise or services for consumption or use on the premises.

(b) Service at canteens other than those established at hospitals and homes shall be limited to sales of merchandise and services for consumption or use on the premises, to personnel employed at such establishments, their visitors, and other persons at such establishments on official business.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1249.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4202 of this title.

§ 4204. Financing of Service

To finance the establishment, maintenance, and operation of the Service there is hereby authorized to be appropriated, from time to time, such amounts as are necessary to provide for (1) the acquisition of necessary furniture, furnishings, fixtures, and equipment for the establishment, maintenance, and operation of canteens, warehouses, and storage depots; (2) stocks of merchandise and supplies for canteens and reserve stocks of same in warehouses and storage depots; (3) salaries, wages, and expenses of all employees; (4) administrative and operation expenses; and (5) adequate working capital for each canteen and for the Service as a whole. Amounts appropriated under the authority contained in this chapter, amounts heretofore appropriated to carry out Public Law 636, Seventy-ninth Congress, and all income from canteen operations become and will be administered as a revolving fund to effectuate the provisions of this chapter.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1250; Pub. L. 92-310, title II, § 209, June 6, 1972, 86 Stat. 204.)

REFERENCES IN TEXT

Public Law 636, Seventy-ninth Congress, referred to in text, is act Aug. 7, 1946, ch. 791, 60 Stat. 887, which was classified to sections 13 to 13g of former Title 38, Pensions, Bonuses, and Veterans' Relief, prior to the repeal and reenactment of the provisions of such Public Law as chapter 75 (§ 4201 et seq.) of Title 38, Veteran's Benefits, by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1248.

AMENDMENTS

1972—Pub. L. 92-310 eliminated words "and premiums on fidelity bonds of employees" from cl. (4).

§ 4205. Revolving fund

The revolving fund shall be deposited in a checking account with the Treasury of the United States. Such amounts thereof as the Administrator may determine to be necessary to establish and maintain operating accounts for the various canteens may be deposited in checking accounts in other depositaries selected by the Administrator.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1250.)

§ 4206. Budget of Service

The Service shall prepare annually and submit a budget program as provided for wholly owned Government corporations by sections 841-869 of title 31, which shall contain an estimate of the needs of the Service for the ensuing fiscal year including an estimate of the amount required to restore any impairment of the revolving fund resulting from operations of the current fiscal year. Any balance in the revolving fund at the close of the fiscal year in excess of the estimated requirements for the

ensuing fiscal year shall be covered into the Treasury as miscellaneous receipts.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1250.)

REFERENCES IN TEXT

Sections 841–869 of title 31, referred to in text, comprise act Dec. 6, 1945, ch. 557, 59 Stat. 597, as amended, popularly known as the Government Corporation Control Act, which is classified generally to chapter 14 (§ 841 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title note set out under section 841 of Title 31 and Tables volume.

§ 4207. Audit of accounts

The Service shall maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of the Accounting and Auditing Act of 1950.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1250; Pub. L. 93–604, title VII, § 704, Jan. 2, 1975, 88 Stat. 1964.)

REFERENCES IN TEXT

The Accounting and Auditing Act of 1950, referred to in text, is act Sept. 12, 1950, ch. 946, title I, part II, 64 Stat. 834 as amended, which is classified generally to chapter 1A (§ 65 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title note set out under section 65 of Title 31 and Tables volume.

AMENDMENTS

1975—Pub. L. 93–604 substituted provisions that the Service maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of the Accounting and Auditing Act of 1950 for provisions that the Service maintain an integral set of accounts which shall be audited annually by the General Accounting Office in accordance with the principles and procedures applicable to commercial transactions as provided by sections 841–869 of Title 31 and that no other audit shall be required.

§ 4208. Service to be independent unit

It is the purpose of this chapter that, under control and supervision of the Administrator, the Service shall function as an independent unit in the Veterans' Administration and shall have exclusive control over all its activities including sales, procurement and supply, finance, including disbursements, and personnel management, except as otherwise herein provided.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1250.)

REFERENCES IN TEXT

"Except as otherwise herein provided", referred to in text, means except as otherwise provided in this chapter.

PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

Chap. Sec.
81. Acquisition and Operation of Hospital and Domiciliary Facilities; Procurement and Supply 5001
82. Assistance in Establishing New State Medical Schools; Grants to Affiliated Medical Schools; Assistance to Health Manpower Training Institutions 5070
83. Acceptance of Gifts and Bequests 5101
85. Disposition of Deceased Veterans' Personal Property 5201

AMENDMENTS

1972—Pub. L. 92–541, § 2(b), Oct. 24, 1972, 86 Stat. 1107, added chapter 82.

CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

SUBCHAPTER I—PROVISIONS RELATING TO HOSPITALS AND HOMES

Sec.
5001. Hospital and domiciliary facilities.
5002. Construction and repair of buildings.
5003. Use of Armed Forces facilities.
5004. Garages and parking facilities.
5005. Acceptance of certain property.
5006. Property formerly owned by National Home for Disabled Volunteer Soldiers.
5007. Partial relinquishment of legislative jurisdiction.

SUBCHAPTER II—PROCUREMENT AND SUPPLY

5011. Revolving supply fund.
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SUBCHAPTER III—STATE HOME FACILITIES FOR FURNISHING NURSING HOME CARE

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5057. Reports to Congress.

AMENDMENTS

1976—Pub. L. 94–581, title I, § 115(b), Oct. 21, 1976, 90 Stat. 2853, substituted "health services development activities carried out under the National Health Planning and Resources Development Act of 1974" for "programs carried out under the Heart Disease, Cancer, and Stroke Amendments of 1965" in item 5056.

1973—Pub. L. 93–82, title III, § 302(3), Aug. 2, 1973, 87 Stat. 195, added item 5007.

1966—Pub. L. 89–785, title II, §§ 201(b), 202(c), 2. Nov. 7, 1966, 80 Stat. 1372, 1373, 1376, substituted "Garages and parking facilities" for "Garages on hospital and domiciliary reservations" in item 5004, inserted words "and to negotiate for common services" in item 5012, and added the heading of subchapter IV and items 5051 to 5056 and 5075.

1964—Pub. L. 88–450, § 4(b), Aug. 19, 1964, 78 Stat. 503, added the heading of subchapter III and items 5031 to 5037.

SUBCHAPTER I—PROVISIONS RELATING TO HOSPITALS AND HOMES

§ 5001. Hospital and domiciliary facilities

(a)(1) The Administrator, subject to the approval of the President, shall provide hospitals, domiciliaries, and out-patient dispensary facilities for veterans entitled under this title to hos-

pital or domiciliary care or medical services. Such hospitals, domiciliaries, and other facilities may be provided by (A) purchase, replacement, or remodeling or extension of existing plants, or (B) construction of such facilities on sites already owned by the United States or on sites acquired by purchase, condemnation, gift, or otherwise.

(2) The Administrator, subject to the approval of the President, is authorized to establish and operate not less than one hundred and twenty-five thousand hospital beds in facilities over which the Administrator has direct jurisdiction for the care and treatment of eligible veterans who are tuberculous, neuropsychiatric, medical, and surgical cases, and the Administrator shall staff and maintain, in such a manner as to insure the immediate acceptance and timely and complete care of patients, sufficient beds and other treatment capacities to accommodate, and provide such care to, eligible veterans applying for admission and found to be in need of hospital care or medical services. The Administrator shall maintain the bed and treatment capacities of all Veterans' Administration medical facilities so as to insure the accessibility and availability of such beds and treatment capacities to eligible veterans in all States and to minimize delays in admissions and in the provision of such care and of services pursuant to section 612 of this title. The Chief Medical Director shall periodically analyze agencywide admission policies and the records of those eligible veterans who apply for hospital care and medical services but are rejected or not immediately admitted or provided such care or services, and the Administrator shall annually advise the House and Senate Committees on Veterans' Affairs of the results of such analysis and the number of any additional beds and treatment capacities and the appropriate staffing and funds therefor found necessary to meet the needs of such veterans for such necessary care and services.

(3) The Administrator, subject to the approval of the President, shall establish and operate not less than ten thousand beds in fiscal year 1980 and in each fiscal year thereafter for the furnishing of nursing home care to eligible veterans in facilities over which the Administrator has direct jurisdiction. The nursing beds authorized by this paragraph shall be in addition to the hospital beds provided for in paragraph (2) of this subsection.

(b) Hospitals, domiciliaries, and other medical facilities provided by the Administrator (including nursing home facilities for which the Administrator contracts under section 620 of this title) shall be of fire, earthquake, and other natural disaster resistant construction in accordance with standards which the Administrator shall prescribe on a State or regional basis after surveying appropriate State and local laws, ordinances, and building codes and climatic and seismic conditions pertinent to each such facility. When an existing plant is purchased, it shall be remodeled to comply with the requirements stated in the first sentence of this subsection. In order to carry out this subsection, the Administrator shall appoint an Advisory Committee on Structural Safety of Veterans' Administration Facilities, on which shall serve at least one architect and one structural engineer expert in fire, earthquake, and other natural disaster resistance who shall not be employees of the Federal Government, to advise the Administrator on all matters of structural safety in the construction and remodeling of Veterans' Administration facilities in accordance with the requirement of this subsection, and which shall approve regulations prescribed thereunder. The Associate Deputy Administrator, the Chief Medical Director, or the Chief Medical Director's designee, and the Veterans' Administration official charged with the responsibility for construction shall be ex officio members of such committee.

(c) The location of each hospital or domiciliary and its nature (whether for domiciliary care or the treatment of tuberculosis, neuropsychiatric cases, or general medical and surgical cases) shall be within the discretion of the Administrator, subject to the approval of the President.

(d) The Administrator may accept gifts or donations for any of the purposes of this section.

(e) The Administrator, subject to the approval of the President, may use as hospitals, domiciliaries, or out-patient dispensary facilities such suitable buildings, structures, and grounds owned by the United States on March 3, 1925, as may be available for such purposes, and the President may by Executive order transfer any such buildings, structures, and grounds to the control and jurisdiction of the Veterans' Administration upon the request of the Administrator.

(f) As used in this section and in sections 5002 and 5003 of this title, the term "hospitals, domiciliaries, or out-patient dispensary facilities" includes necessary buildings and auxiliary structures, mechanical equipment, approach work, roads, and trackage facilities leading thereto, sidewalks abutting hospital reservations, vehicles, livestock, furniture, equipment, accessories, accommodations for officers, nurses, and attending personnel, and proper and suitable recreational facilities.

(g) The Administrator may make contributions to local authorities toward, or for, the construction of traffic controls, road improvements, or other devices adjacent to Veterans' Administration medical facilities when deemed necessary for safe ingress or egress.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1251; Pub. L. 88-450, § 1, Aug. 19, 1964, 78 Stat. 500; Pub. L. 89-311, § 8, Oct. 31, 1965, 79 Stat. 1157; Pub. L. 93-82, title III, § 301, Aug. 2, 1973, 87 Stat. 195; Pub. L. 94-581, title I, § 114, title II, §§ 206(a), 210(e)(1), Oct. 21, 1976, 90 Stat. 2852, 2859, 2864.)

AMENDMENTS

1976—Subsec. (a)(2). Pub. L. 94-581, § 206(a)(1), substituted "has direct jurisdiction" for "has direct and exclusive jurisdiction" and "tuberculous" for "tuberculosis".

Subsec. (a)(3). Pub. L. 94-581, §§ 114, 206(a)(2), substituted "ten thousand beds in fiscal year 1980" for "eight thousand beds in the fiscal year ending June 30, 1974," and "has direct jurisdiction" for "has direct and exclusive jurisdiction".

Subsec. (b). Pub. L. 94-581, § 210(e)(1), substituted "advise the Administrator on all matters" for "advise him on all matters" and "or the Chief Medical Director's designee" for "or his designee".

1973—Subsec. (a)(2). Pub. L. 93-82, § 301(a)(1), added provisions that the Administrator shall staff and maintain sufficient beds to insure immediate acceptance and timely and complete cure of eligible patients and that the Administrator maintain adequate bed and treatment capacities of all Veterans' Administration medical facilities so as to insure the accessibility and availability of such beds and treatment capacities to eligible veterans in all states and that the Chief Medical Director periodically analyze agencywide admission policies and records and that the Administrator advise annually the House and Senate Committees on Veterans' Affairs of the results of such analysis and future requirements.

Subsec. (a)(3). Pub. L. 93-82, § 301(a)(2), made it mandatory for the Administrator to establish and operate not less than eight thousand beds in the fiscal year ending June 30, 1974, and in each fiscal year thereafter.

Subsec. (b). Pub. L. 93-82, § 301(b), added requirements that the Administrator make fire, earthquake, and other disaster resistance studies, to ensure that all new construction and new acquisitions meet new safety standards he is directed to prescribe and provided for the appointment of an intra-agency Advisory Committee on Structural Safety in Veterans' Administration facilities.

Subsec. (g). Pub. L. 93-82, § 301(c), added subsec. (g).

1965—Subsec. (a). Pub. L. 89-311, added par. (2) and redesignated former par. (2) as par. (3) and in par. (3) as so redesignated provided that the nursing beds authorized by the paragraph should be in addition to the hospital beds provided for in par. (2).

1964—Subsec. (a). Pub. L. 88-450 designated subsec. (a) as par. (1), redesignated clauses (1) and (2) as (A) and (B), respectively, and added par. (2).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees established after Jan. 5, 1973 to terminate not later than the expiration of the two-year period beginning on the date of its establishment unless in the case of a committee established by the President or an officer of the federal government, such committee is renewed by appropriate action prior to the end of such period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 5002. Construction and repair of buildings

The construction of new hospitals, domiciliaries and out-patient dispensary facilities, or the replacement, extension, alteration, remodeling, or repair of all such facilities shall be done in such manner as the President may determine. The President may require the architectural, engineering, constructing, or other forces of any of the departments of the Government to do or assist in such work, and the President may employ individuals and agencies not connected with the Government, if in the opinion of the President such is desirable, at such compensation as the President may consider reasonable.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1252; Pub. L. 94-581, title II, § 210(e)(2), Oct. 21, 1976, 90 Stat. 2865.)

AMENDMENTS

1976—Pub. L. 94-581 substituted "and the President may employ" for "and he may employ", "in the opinion of the President such is desirable" for "in his opinion desirable", and "as the President may consider" for "as he may consider".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5001 of this title.

§ 5003. Use of Armed Forces facilities

The Administrator and the Secretary of the Army, the Secretary of the Air Force, and the Secretary of the Navy may enter into agreements and contracts for the mutual use or exchange of use of hospitals and domiciliary facilities, and such supplies, equipment, and material as may be needed to operate such facilities properly, or for the transfer, without reimbursement of appropriations, of facilities, supplies, equipment, or material necessary and proper for authorized care for veterans, except that at no time shall the Administrator enter into any agreement which will result in a permanent reduction of Veterans' Administration hospital and domiciliary beds below the number established or approved on June 22, 1944, plus the estimated number required to meet the load of eligibles under this title, or in any way subordinate or transfer the operation of the Veterans' Administration to any other agency of the Government.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1252.)

§ 5004. Garages and parking facilities

(a) The Administrator may construct and maintain on reservations of Veterans' Administration hospitals and domiciliaries, garages for the accommodation of privately owned automobiles of employees of such hospitals and domiciliaries. Employees using such garages shall make such reimbursement therefor as the Administrator may deem reasonable.

(b)(1) The Administrator may establish, operate, and maintain, in conjunction with Veterans' Administration hospitals and domiciliaries, parking facilities for the accommodation of privately owned vehicles of Federal employees, and vehicles of visitors and other individuals having business at such hospitals and domiciliaries.

(2) The Administrator may establish and collect (or provide for the collection of) fees, for the use of the parking facilities, authorized by subsection (b)(1) of this section, at such rate or rates which the Administrator determines would be reasonable under the particular circumstances; but no fee may be charged for the accommodation of any privately owned vehicle used in connection with the transportation of a veteran to or from such a hospital or domicili-

ary for the purpose of examination or treatment or in connection with a visit to a patient or member in such hospital or domiciliary.

(3) The Administrator may contract, by lease or otherwise, with responsible persons, firms or corporations, for the operation of such parking facilities, under such terms and conditions as the Administrator may prescribe, and without regard to the laws concerning advertising for competitive bids.

(c) Money received from the use of the garages and from the parking facilities operations authorized by this section, may be credited to the applicable appropriation charged with the cost of operating and maintaining these facilities. Any amount not needed for the maintenance, operation, and repair of these facilities shall be covered into the Treasury of the United States as miscellaneous receipts.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1252; Pub. L. 89-785, title II, § 201(a), Nov. 7, 1966, 80 Stat. 1372; Pub. L. 94-581, title II, § 210(e)(3), Oct. 21, 1976, 90 Stat. 2865.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-581 substituted "the Administrator" for "he" in pars. (2) and (3).

1966—Pub. L. 89-785 substituted "Garages and parking facilities" for "Garages on hospital and domiciliary reservation" in the catchline, designated existing provisions as subsec. (a) and eliminated therefrom provisions which related to disposition of receipts from the use of the garages, and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

§ 5005. Acceptance of certain property

The President may accept from any State or other political subdivision, or from any person, any building, structure, equipment, or grounds suitable for the care of the disabled, with due regard to fire or other hazards, state of repair, and all other pertinent considerations. The President may designate which agency of the Federal Government shall have the control and management of any property so accepted.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1252; Pub. L. 94-581, title II, § 210(e)(4), Oct. 21, 1976, 90 Stat. 2865.)

AMENDMENTS

1976—Pub. L. 94-581 substituted "The President may designate" for "He may designate".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

§ 5006. Property formerly owned by National Home for Disabled Volunteer Soldiers

If by reason of any defeasance or conditional clause or clauses contained in any deed of conveyance of property to the National Home for Disabled Volunteer Soldiers, which property is owned by the United States, the full and complete enjoyment and use of such property is threatened, the Attorney General, upon request of the President, shall institute in the United States district court for the district in which the property is located such proceedings as may be proper to extinguish all outstanding adverse interests. The Attorney General may procure and accept, on behalf of the United States by gift, purchase, cession, or otherwise, absolute title to and complete jurisdiction over all such property.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1253.)

§ 5007. Partial relinquishment of legislative jurisdiction

The Administrator, on behalf of the United States, may relinquish to the State in which any lands or interests therein under the Administrator's supervision or control are situated, such measure of legislative jurisdiction over such lands or interests as is necessary to establish concurrent jurisdiction between the Federal Government and the State concerned. Such partial relinquishment of legislative jurisdiction shall be initiated by filing a notice thereof with the Governor of the State concerned, or in such other manner as may be prescribed by the laws of such State, and shall take effect upon acceptance by such State.

(Added Pub. L. 93-82, title III, § 302(1), Aug. 2, 1973, 87 Stat. 195, and amended Pub. L. 94-581, title II, § 210(e)(5), Oct. 21, 1976, 90 Stat. 2865.)

AMENDMENTS

1976—Pub. L. 94-581 substituted "the Administrator's" for "his".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE

Section effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

SUBCHAPTER II—PROCUREMENT AND SUPPLY

§ 5011. Revolving supply fund

(a) The revolving supply fund established for the operation and maintenance of a supply system for the Veterans' Administration (including procurement of supplies, equipment, and personal services and the repair and reclamation of used, spent, or excess personal property) shall be—

(1) available without fiscal year limitations for all expenses necessary for the operation and maintenance of such supply system;

(2) reimbursed from appropriations for the cost of all services, equipment, and supplies furnished, at rates determined by the Administrator on the basis of estimated or actual direct and indirect cost; and

(3) credited with advances from appropriations for activities to which services or supplies are to be furnished, and all other receipts resulting from the operation of the fund, including property returned to the supply system when no longer required by activities to which it had been furnished, the

proceeds of disposal of scrap, excess or surplus personal property of the fund, and receipts from carriers and others for loss of or damage to personal property.

At the end of each fiscal year, any net income of the fund, after making provision for prior losses, shall be covered into the Treasury of the United States as miscellaneous receipts.

(b) An adequate system of accounts for the fund shall be maintained on the accrual method, and financial reports prepared on the basis of such accounts. An annual business type budget shall be prepared for operations under the fund.

(c) The Administrator is authorized to capitalize, at fair and reasonable values as determined by the Administrator, all supplies and materials and depot stocks of equipment on hand or on order.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1253; Pub. L. 87-314, Sept. 26, 1961, 75 Stat. 675; Pub. L. 94-581, title II, § 210(e)(6), Oct. 21, 1976, 90 Stat. 2865.)

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-581 substituted "the Administrator" for "him".

1961—Subsec. (a). Pub. L. 87-314 included among the purposes for which the supply fund was established, the repair and reclamation of used, spent, or excess personal property, and authorized the crediting of the fund with property returned to the supply system when no longer required by activities to which it had been furnished.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 632 of this title.

§ 5012. Authority to procure and dispose of property and to negotiate for common services

(a) The Administrator may lease for a term not exceeding three years lands or buildings, or parts or parcels thereof, belonging to the United States and under the Administrator's control. Any lease made pursuant to this subsection to any public or nonprofit organization may be made without regard to the provisions of section 3709 of the Revised Statues (41 U.S.C. 5). Notwithstanding section 321 of the Act entitled "An Act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1933, and for other purposes," approved June 30, 1932 (40 U.S.C. 303b), or any other provision of law, a lease made pursuant to this subsection to any public or nonprofit organization may provide for the maintenance, protection, ore restoration, by the lessee, of the property leased, as a part or all of the consideration for the lease. Prior to the execution of any such lease, the Administrator shall give appropriate public notice of the Administrator's intention to do so in the newspaper of the community in which the lands or buildings to be leased are located. The proceeds from such leases, less expenses for maintenance, operation, and repair of buildings leased for living quarters, shall be covered into the Treasury of the United States as miscellaneous receipts.

(b) The Administrator may, for the purpose of extending benefits to veterans and dependents, and to the extent the Administrator deems necessary, procure the necessary space for administrative, clinical, medical, and outpatient treatment purposes by lease, purchase, or construction of buildings, or by condemnation or declaration of taking, pursuant to law.

(c) The Administrator may procure laundry services, and other common services as specifically approved by the Administrator from nonprofit, tax-exempt educational, medical or community institutions, without regard to the requirements of section 302(c) of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 252(c)), whenever such services are not reasonably available from private commercial sources. Notwithstanding this exclusion, the provisions of section 304 of that Act shall apply to procurement authorized by this subsection.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1253; Pub. L. 89-785, title II, § 202(a), (b), Nov. 7, 1966, 80 Stat. 1373; Pub. L. 93-82, title III, § 302(2), Aug. 2, 1973, 87 Stat. 195; Pub. L. 94-581, title II, § 210(e)(7), Oct. 21, 1976, 90 Stat. 2865.)

REFERENCES IN TEXT

Section 304 of that Act, referred to in subsec. (c), is section 304 of act June 30, 1949, ch. 288, 63 Stat. 395, which enacted section 254 of Title 41, Public Contracts.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-581, § 210(e)(7)(A), substituted "under the Administrator's control" for "under his control" and "notice of the Administrator's intention" for "notice of his intention".

Subsec. (b). Pub. L. 94-581, § 210(e)(7)(B), substituted "the Administrator" for "he".

Subsec. (c). Pub. L. 94-581, § 210(e)(7)(C), substituted "the Administrator" for "him".

1973—Subsec. (a). Pub. L. 93-82 added provisions that leases under this subsection may be made without regard to section 5 of title 41, that notwithstanding section 303b of title 40 or any other provision of law, such leases may provide for the maintenance, protection, or restoration, by the lessee, of the property leased, as a part or all of the consideration for the lease and that prior to the execution of the leases, the Administrator shall notify his intention in the local newspaper.

1966—Pub. L. 89-785 inserted words "and to negotiate for common services" in the catchline, and added subsec. (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

§ 5013. Procurement of prosthetic appliances

The Administrator may procure prosthetic appliances and necessary services required in the fitting, supplying, and training and use of

prosthetic appliances by purchase, manufacture, contract, or in such other manner as the Administrator may determine to be proper, without regard to any other provision of law.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1254; Pub. L. 94-581, title II, § 210(e)(8), Oct. 21, 1976, 90 Stat. 2865.)

AMENDMENTS

1976—Pub. L. 94-581 substituted "the Administrator" for "he".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

§ 5014. Grant of easements in Government-owned lands

The Administrator, whenever the Administrator deems it advantageous to the Government and upon such terms and conditions as the Administrator deems advisable, may grant on behalf of the United States to any State, or any agency or political subdivision thereof, or to any public-service company, easements in and rights-of-way over lands belonging to the United States which are under the Administrator's supervision and control. Such grant may include the use of such easements or rights-of-way by public utilities to the extent authroized and under the conditions imposed by the laws of such State relating to use of public highways. Such partial, concurrent, or exclusive jurisdiction over the areas covered by such easements or rights-of-way, as the Administrator deems necessary or desirable, is hereby ceded to the State in which the land is located. The Administrator may accept or secure on behalf of the United States from the State in which is situated any land conveyed in exchange for any such easement or right-of-way, such jurisdiction as the Administrator may deem necessary or desirable over the land so acquired. Any such easement or right-of-way shall be terminated upon abandonment or nonuse of the same and all right, title, and interest in the land covered thereby shall thereupon revert to the United States or its assignee.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1254; Pub. L. 94-581, title II, § 210(e)(9), Oct. 21, 1976, 90 Stat. 2865.)

AMENDMENTS

1976—Pub. L. 94-581 substituted "the Administrator" for "he" in three places and "under the Administrator's supervision" for "under his supervision".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581 set out as an Effective Date of 1976 Amendment note under section 111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 43 section 421c.

SUBCHAPTER III—STATE HOME FACILITIES FOR FURNISHING NURSING HOME CARE

§ 5031. Definitions

For the purpose of this subchapter—

(a) The veteran population of each State shall be determined on the basis of the latest figures certified by the Department of Commerce.

(b) The term "State" does not include any possession of the United States.

(c) The term "construction" means the construction of new buildings, the expansion, remodeling, modification, or alteration of existing buildings, and the providing of initial equipment for any such buildings.

(d) The term "cost of construction" means the amount found by the Administrator to be necessary for a project of construction of nursing home care facilities, including architect fees, but not including the cost of acquisition of land.

(Added Pub. L. 88-450, § 4(a), Aug. 19, 1964, 78 Stat. 501, and amended Pub. L. 94-581, title II, § 206(b), Oct. 21, 1976, 90 Stat. 2859.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-581 substituted "veteran" for "war veteran".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

§ 5032. Declaration of purpose

The purpose of this subchapter is to assist the several States to construct State home facilities for furnishing nursing home care to veterans.

(Added Pub. L. 88-450, § 4(a), Aug. 19, 1964, 78 Stat. 501, and amended Pub. L. 94-581, title II, § 206(b), Oct. 21, 1976, 90 Stat. 2859.)

AMENDMENTS

1976—Pub. L. 94-581 substituted "veterans" for "war veterans".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5033 of this title.

§ 5033. Authorization of appropriations

(a) There is hereby authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1965, and a like sum for each of the fourteen succeeding fiscal years. Sums appropriated pursuant to this section shall be used for making grants to States which have submitted, and have had approved by the Administrator, applications for carrying out the purposes of section 5032 of this title.

(b) Sums appropriated pursuant to subsection (a) of this section shall remain available until

the end of the second fiscal year following the fiscal year for which they are appropriated.

(Added Pub. L. 88-450, § 4(a), Aug. 19, 1964, 78 Stat. 501, and amended Pub. L. 89-311, § 7(a), Oct. 31, 1965, 79 Stat. 1157; Pub. L. 90-432, § 2, July 26, 1968, 82 Stat. 448; Pub. L. 93-82, title IV, § 403(c), Aug. 2, 1973, 87 Stat. 196.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-82 substituted "fourteen succeeding fiscal years" for "nine succeeding fiscal years".

1968—Subsec. (a). Pub. L. 90-432 substituted "nine succeeding fiscal years" for "four succeeding fiscal years".

1965—Subsec. (c). Pub. L. 89-311 repealed subsec. (c) which limited to not more than 10 per centum of the funds appropriated pursuant to subsec. (a) of this section the moneys which could be used to assist in the construction of nursing home care facilities in any one State.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

§ 5034. General regulations

Within six months after the date of enactment of this section or any amendment to it with respect to such amendment, the Administrator shall prescribe the following by regulation:

(1) The number of beds required to provide adequate nursing home care to veterans residing in each State, which number shall not exceed two and one-half beds per thousand veteran population in the case of any State.

(2) General standards of construction, repairs, modernization, alteration, and equipment for facilities for furnishing nursing home care which are constructed with assistance received under this subchapter.

(3) General standards for the furnishing of nursing home care in facilties which are constructed with assistance received under this subchapter, which standards shall be no less stringent than those standards prescribed by the Administrator pursuant to section 620(b) of this title. The Administrator may inspect any State facility constructed with assistance received under this subchapter at such times as the Administrator deems necessary to insure that such facility meets such standards.

(Added Pub. L. 88-450, § 4(a), Aug. 19, 1964, 78 Stat. 502, and amended Pub. L. 89-311, § 7(b), Oct. 31, 1965, 79 Stat. 1157; Pub. L. 93-82, title IV, § 403(d), Aug. 2, 1973, 87 Stat. 196; Pub. L. 94-581, title I, § 107(b), title II, § 206(b), Oct. 21, 1976, 90 Stat. 2847, 2859.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in the provisions preceding par. (1), means the date of enactment of Pub. L. 88-450, which was enacted Aug. 19, 1964.

AMENDMENTS

1976—Pub. L. 94-581 substituted "date of enactment of this section or any amendment to it with respect to such amendment" for "date of enactment of this subchapter" in the provisions preceding par. (1), substituted "veterans" and "veteran" for "war veterans" and "war veteran", respectively, in par. (1), and added par. (3).

1973—Par. (1). Pub. L. 93-82 substituted "two and one-half beds" for "one and one-half beds".

1965—Par. (1). Pub. L. 89-311 substituted "one and one-half beds" for "one-half bed".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5035 of this title.

§ 5035. Applications with respect to projects; payments

(a) After regulations have been prescribed by the Administrator under section 5034 of this title, any State desiring to receive assistance for a project for construction of State home facilities for furnishing nursing home care must submit to the Administrator an application. Such application shall set forth—

(1) the amount of the grant requested with respect to such project which may not exceed 65 per centum of the estimated cost of construction of such project,

(2) a description of the site for such project,

(3) plans and specifications for such project in accordance with regulations prescribed by the Administrator pursuant to section 5034(2) of this title,

(4) reasonable assurance that upon completion of such project the facilties will be used principally to furnish nursing home care to veterans and that not more than 10 per centum of the bed occupancy at any one time will consist of patients who are not receiving nursing home care as veterans,

(5) reasonable assurance that title to such site is or will be vested solely in the applicant, a State home, or another agency or instrumentality of the State,

(6) reasonable assurance that adequate financial support will be available for the construction of the project and for its maintenance and operation when complete,

(7) reasonable assurance that the State will make such reports in such form and containing such information as the Administrator may from time to time reasonably require, and give the Administrator, upon demand, access to the records upon which such information is based, and

(8) reasonable assurance that the rates of pay for laborers and mechanics engaged in construction of the project will be not less than the prevailing local wage rates for similar work as determined in accordance with sections 276a through 276a-5 of title 40 (known as the Davis-Bacon Act).

(b) The Administrator shall approve any such application if the Administrator finds that—

(1) there are sufficient funds available to make the grant requested with respect to such project,

(2) such grant does not exceed 65 per centum of the estimated cost of construction of such project,

(3) the application contains such reasonable assurance as to use, title, financial support, reports and access to records, and payment of prevailing rates of wages, as the Administrator may determine to be necessary, and

(4) the plans and specifications for such project are in accord with regulations prescribed pursuant to section 5034(2) of this title and that the construction of such project, together with other projects under construction and other facilities, will not result in more than the number of beds prescribed by the Administrator pursuant to section 5034(1) of this title for the State in which such project is located being available for furnishing nursing home care to veterans in such State.

(c) No application submitted to the Administrator under this section shall be disapproved until the Administrator has afforded the applicant an opportunity for a hearing.

(d) Upon approving an application under this section, the Administrator shall certify to the Secretary of the Treasury the amount of the grant requested with respect to such project in such application, but in no event an amount greater than 65 per centum of the estimated cost of construction of the project, and shall designate the appropriation from which it shall be paid. Such certification shall provide for payment to the applicant or, if designated by the applicant, the State home for which such project is being constructed or any other agency or instrumentality of the applicant. Such amount shall be paid, in advance or by way of reimbursement, and in such installments consistent with the progress of construction as the Administrator may determine and certify for payment to the Secretary of the Treasury. Funds paid under this section for the construction of an approved project shall be used solely for carrying out such project as so approved.

(e) Any amendment of any approved application shall be subject to approval in the same manner as an original application.

(Added Pub. L. 88-450, § 4(a), Aug. 19, 1964, 78 Stat. 502, and amended Pub. L. 89-311, § 7(a), Oct. 31, 1965, 79 Stat. 1157; Pub. L. 93-82, title IV, § 403(e), Aug. 2, 1973, 87 Stat. 196; Pub. L. 94-581, title II, §§ 206(b), 210(e)(10), Oct. 21, 1976, 90 Stat. 2859, 2865.)

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in subsec. (a)(8), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

AMENDMENTS

1976—Subsec. (a)(4). Pub. L. 94-581, § 206(b), substituted "veterans" for "war veterans" in two places.

Subsec. (b). Pub. L. 94-581, §§ 206(b), 210(e)(10), substituted "the Administrator" for "he" in the provisions preceding par. (1) and "veterans" for "war veterans" in par. (4).

1973—Subsec. (a)(1). Pub. L. 93-82 substituted "65 per centum" for "50 per centum".

Subsec. (b)(2). Pub. L. 93-82 substituted "65 per centum" for "50 per centum".

Subsec. (d). Pub. L. 93-82 substituted "65 per centum" for "50 per centum".

1965—Subsec. (b). Pub. L. 89-311 repealed par. (3) which placed a limit of 10 per centum of the funds appropriated for any fiscal year pursuant to section 5033(a) of this title upon the amount which could be used to assist in the construction of facilities in any one state, and redesignated pars. (4) and (5) as pars. (3) and (4) respectively.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

§ 5036. Recapture provisions

If, within twenty years after completion of any project, for construction of facilities for furnishing nursing home care with respect to which a grant has been made under this subchapter, such facilities cease to be operated by a State, a State home, or an agency or instrumentality of a State principally for furnishing nursing home care to veterans, the United States shall be entitled to recover from the State which was the recipient of the grant under this subchapter, or from the then owner of such facilities, 65 per centum of the then value of such facilities, as determined by agreement of the parties or by action brought in the district court of the United States for the district in which such facilities are situated.

(Added Pub. L. 88-450, § 4(a), Aug. 19, 1964, 78 Stat. 503, and amended Pub. L. 93-82, title IV, § 403(f), Aug. 2, 1973, 87 Stat. 196; Pub. L. 94-581, title II, § 206(b), Oct. 21, 1976, 90 Stat. 2859.)

AMENDMENTS

1976—Pub. L. 94-581 substituted "veterans" for "war veterans".

1973—Pub. L. 93-82 substituted "65 per centum" for "50 per centum".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

§ 5037. State control of operations

Except as otherwise specifically provided, nothing in this subchapter shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, mainte-

nance, or operation of any State home for which facilities are constructed with assistance received under this subchapter.

(Added Pub. L. 88-450, § 4(a), Aug. 19, 1964, 78 Stat. 503.)

SUBCHAPTER IV—SHARING OF MEDICAL FACILITIES, EQUIPMENT, AND INFORMATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5073 of this title.

§ 5051. Statement of congressional purpose

It is the purpose of this subchapter to improve the quality of hospital care and other medical service provided veterans under this title, by authorizing the Administrator to enter into agreements with medical schools, hospitals, and research centers throughout the country in order to receive from and share with such medical schools, hospitals, and research centers the most advanced medical techniques and information, as well as certain specialized medical resources which otherwise might not be feasibly available or to effectively utilize other medical resources with the surrounding medical community, without diminuation of services to veterans. Among other things, it is intended, by these means, to strengthen the medical programs at those Veterans' Administration hospitals which are located in small cities or rural areas and thus are remote from major medical centers.

(Added Pub. L. 89-785, title II, § 203, Nov. 7, 1966, 80 Stat. 1373.)

§ 5052. Definitions

For the purposes of this subchapter—

(a) The term "research center" means an institution (or part of an institution), the primary function of which is research, training of specialists, and demonstrations and which, in connection therewith, provides specialized, high quality diagnostic and treatment services for inpatients and outpatients.

(b) The term "specialized medical resources" means medical resources (whether equipment, space, or personnel) which, because of cost, limited availability, or unusual nature, are either unique in the medical community or are subject to maximum utilization only through mutual use.

(c) The term "hospital", unless otherwise specified, includes any Federal, State, local, or other public or private hospital.

(Added Pub. L. 89-785, title II, § 203, Nov. 7, 1966, 80 Stat. 1373.)

§ 5053. Specialized medical resources

(a) To secure certain specialized medical resources which otherwise might not be feasibly available, or to effectively utilize certain other medical resources, the Administrator may, when the Administrator determines it to be in the best interest of the prevailing standards of the Veterans' Administration medical care program, make arrangements, by contract or other form of agreement, as set forth in clauses (1) and (2) below, between Veterans' Administration hospitals and other hospitals (or other medical installations having hospital facilities) or medical schools or clinics in the medical community:

(1) for the mutual use, or exchange of use, of specialized medical resources when such an agreement will obviate the need for a similar resource to be provided in a Veterans' Administration health care facility; or

(2) for the mutual use, or exchange of use, of specialized medical resources in a Veterans' Administration health care facility, which have been justified on the basis of veterans' care, but which are not not utilized to their maximum effective capacity.

The Administrator may determine the geographical limitations of a medical community as used in this section.

(b) Arrangements entered into under this section shall provide for reciprocal reimbursement based on a charge which covers the full cost of services rendered, supplies used, and including normal depreciation and amortization costs of equipment. Any proceeds to the Government received therefrom shall be credited to the applicable Veterans' Administration medical appropriation.

(c) Eligibility for hospital care and medical services furnished any veteran pursuant to this section shall be subject to the same terms as though provided in a Veterans' Administration health care facility, and provisions of this title applicable to persons receiving hospital care or medical services in a Veterans' Administration health care facility shall apply to veterans treated hereunder.

(d) When a Veterans' Administration health care facility provides hospital care or medical services, pursuant to a contract or agreement authorized by this section, to an individual who is not eligible for such care or services under chapter 17 of this title and who is entitled to hospital or medical insurance benefits under subchapter XVIII of chapter 7 of title 42, such benefits shall be paid, notwithstanding any condition, limitation, or other provision in that title which would otherwise preclude such payment, in accordance with—

(1) rates prescribed by the Secretary of Health, Education, and Welfare, after consultation with the Administrator, and

(2) procedures jointly prescribed by the Secretary and the Administrator to assure reasonable quality of care and services and efficient and economical utilization of resources,

to such facility therefor or, if the contract or agreement so provides, to the community health care facility which is a party to the contract or agreement.

(Added Pub. L. 89-785, title II, § 203, Nov. 7, 1966, 80 Stat. 1374, and amended Pub. L. 91-496, § 4, Oct. 22, 1970, 84 Stat. 1092; Pub. L. 93-82, title III, § 303, Aug. 2, 1973, 87 Stat. 195; Pub. L. 94-581, title I, § 115(a)(1), title II, §§ 206(c), 210(e)(11), Oct. 21, 1976, 90 Stat. 2852, 2859, 2865.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-581, §§ 206(c), 210(e)(11), substituted "when the Administrator deter-

mines" for "when he determines" and "clauses" for "paragraphs" in the provisions preceding cl. (1), and added "health care" following "Veterans' Administration" in cls. (1) and (2).

Subsec. (c). Pub. L. 94-581, § 206(c)(2), added "health care" following "Veterans' Administration" in two places.

Subsec. (d). Pub. L. 94-581, § 115(a)(1), added subsec. (d).

1973—Subsec. (a). Pub. L. 93-82 struck out "or medical schools" from the material in parenthesis and inserted "or medical schools or clinics" immediately after the parenthesis.

1970—Subsec. (a)(1). Pub. L. 91-496 substituted "for the mutual use, or exchange of use," for "for the exchange of use".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 601 of this title.

REPORT TO CONGRESS ON RATES AND PROCEDURES COVERING PAYMENT OF BENEFITS FOR CARE OR SERVICES PROVIDED IN VETERANS' ADMINISTRATION HEALTH CARE FACILITIES TO INDIVIDUALS NOT ELIGIBLE FOR VETERANS' HOSPITAL, NURSING HOME, DOMICILIARY, OR MEDICAL CARE

Section 115(c) of Pub. L. 94-581 provided that: "At such time as the rates and procedures described in section 5053(d) of title 38, United States Code, are prescribed, the Secretary of Health, Education, and Welfare; in consultation with the Administrator of Veterans' Affairs, shall submit to the Committee on Ways and Means and the Committee on Veterans' Affairs of the House of Representatives and to the Committee on Finance and the Committee on Veterans' Affairs of the Senate a full report describing such rates and procedures (and any such additional matters relating to the formualtion of such rates and procedures as the Secretary may consider pertinent)."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5057 of this title.

§ 5054. Exchange of medical information

(a) The Administrator is authorized to enter into agreements with medical schools, hospitals, research centers, and individual members of the medical profession under which medical information and techniques will be freely exchanged and the medical information services of all parties to the agreement will be available for use by any party to the agreement under conditions specified in the agreement. In carrying out the purposes of this section, the Administrator shall utilize recent developments in electronic equipment to provide a close educational, scientific, and professional link between Veterans' Administration hospitals and major medical centers. Such agreements shall be utilized by the Administrator to the maximum extent practicable to create, at each Veterans' Administration hospital which is a part of any such agreement, an environment of academic medicine which will help such hospital attract and retain highly trained and qualified members of the medical profession.

(b) In order to bring about utilization of all medical information in the surrounding medical community, particularly in remote areas, and to foster and encourage the widest possible cooperation and consultation among all members of the medical profession in such community, the educational facilities and programs established at Veterans' Administration hospitals and the electronic link to medical centers shall be made available for use by the surrounding medical community. The Administrator may charge a fee for such services (on annual or like basis) at rates which the Administrator determines, after appropriate study, to be fair and equitable. The financial status of any user of such services shall be taken into consideration by the Administrator in establishing the amount of the fee to be paid. Any proceeds to the Government received therefrom shall be credited to the applicable Veterans' Administration medical appropriation.

(Added Pub. L. 89-785, title II, § 203, Nov. 7, 1966, 80 Stat. 1374, and amended Pub. L. 94-424, § 1(1), Sept. 28, 1976, 90 Stat. 1332; Pub. L. 94-581, title II, §§ 206(d), 210(e)(12), Oct. 21, 1976, 90 Stat. 2859, 2865.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-581 substituted "by the surrounding" for "by surrounding" and "which the Administrator determines" for "which he determines".

Pub. L. 94-424 added provision that any proceeds to the Government received therefrom shall be credited to the applicable Veterans' Administration medical appropriation.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5055, 5057 of this title.

§ 5055. Pilot programs; grants to medical schools

(a) The Administrator may establish an Advisory Subcommittee on Programs for Exchange of Medical Information, of the Special Medical Advisory Group, established under section 4112 of this title, to advise the Administrator on matters regarding the administration of this section and to coordinate these functions with other research and education programs in the Department of Medicine and Surgery. The Assistant Chief Medical Director charged with administration of the Department of Medicine and Surgery medical research program shall be an ex officio member of this Subcommittee.

(b) The Administrator, upon the recommendation of the Subcommittee, is authorized to make grants to medical schools, hospitals, and research centers to assist such medical schools, hospitals, and research centers in planning and carrying out agreements authorized by section 5054 of this title. Such grants may be used for the employment of personnel, the construction of facilities, the purchasing of equipment when necessary to implement such programs, and for such other purposes as will facilitate the administration of this section.

(c)(1) There is hereby authorized to be appropriated an amount not to exceed $3,500,000 for fiscal year 1976; $1,700,000 for the period beginning July 1, 1976, and ending September 30, 1976; $4,000,000 for fiscal year 1977; $4,000,000 for fiscal year 1978; and $4,000,000 for fiscal year 1979, for the purpose of developing and carrying out medical information programs under this section on a pilot program basis and for the grants authority in subsection (b) of this section. Pilot programs authorized by this subsection shall be carried out at Veterans' Administration hospitals in geographically dispersed areas of the United States.

(2) Funds authorized under this section shall not be available to pay the cost of hospital, medical, or other care of patients except to the extent that such cost is determined by the Administrator to be incident to research, training, or demonstration activities carried out under this section.

(d) The Administrator, after consultation with the Subcommittee shall prescribe regulations covering the terms and conditions for making grants under this section.

(e) Each recipient of a grant under this section shall keep such records as the Administrator may prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant is made or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit.

(f) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipient of any grant under this section which are pertinent to any such grant.

(Added Pub. L. 89-785, title II, § 203, Nov. 7, 1966, 80 Stat. 1375, and amended Pub. L. 92-69, Aug. 6, 1971, 85 Stat. 178; Pub. L. 94-424, § 1(2), Sept. 28, 1976, 90 Stat. 1332; Pub. L. 94-581, title II, §§ 206(e), 210(e)(13), Oct. 21, 1976, 90 Stat. 2859, 2865.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-581 substituted "advise the Administrator" for "advise him" and "Assistant Chief Medical Director charged with administration of the Department of Medicine and Surgery medical research program" for "Assistant Chief Medical Director for Research and Education in Medicine".

Subsec. (c)(1). Pub. L. 94-424 substituted provisions authorizing appropriations of $3,500,000 for fiscal year 1976; $1,700,000 for the period beginning July 1, 1976, and ending Sept. 30, 1976; $4,000,000 for fiscal year 1977; $4,000,000 for fiscal year 1978; and $4,000,000 for fiscal year 1979 for provisions authorizing appropriations of $3,000,000 for each fiscal year 1968 through 1971, and such sums as may be necessary for each fiscal year 1972 through 1975.

1971—Subsec. (c)(1). Pub. L. 92-69 substituted provisions authorizing appropriations of amounts up to $3,000,000 for each fiscal year 1968 through 1971, and such sums as may be necessary for each fiscal year 1972 through 1975, for provisions authorizing appropriations of amounts up to $3,000,000 for each of the first four fiscal years following the fiscal year in which this subchapter was enacted.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. Advisory Councils established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2), and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 5056. Coordination with health services development activities carried out under the National Health Planning and Resources Development Act of 1974

The Administrator and the Secretary of Health, Education, and Welfare shall, to the maximum extent practicable, coordinate programs carried out under this subchapter and programs carried out under part F of title XVI of the Public Health Service Act.

(Added Pub. L. 89-785, title II, § 203, Nov. 7, 1966, 80 Stat. 1375, and amended Pub. L. 94-581, title I, § 115(a)(2), Oct. 21, 1976, 90 Stat. 2853.)

REFERENCES IN TEXT

The National Health Planning and Resources Development Act of 1974, referred to in section catchline, is Pub. L. 93-641, Jan. 4, 1975, 88 Stat. 2225, which is classified generally to subchapters XIII (§ 300k et seq.) and XIV (§ 300o et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 300k of Title 42 and Tables volume.

The Public Health Service Act, referred to in text, is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Part F of title XVI of the Public Health Service Act was added by act Jan. 4, 1975, Pub. L. 93-641, § 4, 88 Stat. 2273, and is classified generally to Part F (§ 300t) of subchapter XIV of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42, and Tables volume.

AMENDMENTS

1976—Pub. L. 94-581 substituted "health services development activities carried out under the National Health Planning and Resources Development Act of 1974" for "programs carried out under the Heart Disease, Cancer, and Stroke Amendments of 1965" in the section catchline and "part F of title XVI" for "title IX" in text.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

§ 5057. Reports to Congress

The Administrator shall submit to the Congress not more than sixty days after the end of each fiscal year separate reports on the activities carried out under sections 5053 and 5054 of this subchapter, each report to include (1) an appraisal of the effectiveness of the programs authorized herein and the degree of cooperation from other sources, financial and otherwise, and (2) recommendations for the improvement or more effective administration of such programs.

(Added Pub. L. 89-785, title II, § 203, Nov. 7, 1966, 80 Stat. 1376.)

CHAPTER 82—ASSISTANCE IN ESTABLISHING NEW STATE MEDICAL SCHOOLS; GRANTS TO AFFILIATED MEDICAL SCHOOLS; ASSISTANCE TO HEALTH MANPOWER TRAINING INSTITUTIONS

Sec.
5070. Coordination with public health programs; administration.

SUBCHAPTER I—PILOT PROGRAM FOR ASSISTANCE IN THE ESTABLISHMENT OF NEW STATE MEDICAL SCHOOLS

5071. Declaration of purpose.
5072. Authorization of appropriations.
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SUBCHAPTER II—GRANTS TO AFFILIATED MEDICAL SCHOOLS

5081. Declaration of purpose.
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SUBCHAPTER III—ASSISTANCE TO PUBLIC AND NONPROFIT INSTITUTIONS OF HIGHER LEARNING, HOSPITALS AND OTHER HEALTH MANPOWER INSTITUTIONS AFFILIATED WITH THE VETERANS' ADMINISTRATION TO INCREASE THE PRODUCTION OF PROFESSIONAL AND OTHER HEALTH PERSONNEL

5091. Declaration of purpose.
5092. Definition.
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SUBCHAPTER IV—EXPANSION OF VETERANS' ADMINISTRATION HOSPITAL EDUCATION AND TRAINING CAPACITY

5096. Expenditures to remodel and make special allocations to Veterans' Administration hospitals for health manpower education and training.

§ 5070. Coordination with public health programs; administration

(a) The Administrator and the Secretary of Health, Education, and Welfare shall, to the maximum extent practicable, coordinate the programs carried out under this chapter and the programs carried out under section 309 and titles VII, VIII, and IX of the Public Health Service Act.

(b) The Administrator may not enter into any agreement under subchapter I of this chapter or make any grant or provide other assistance under subchapter II or III of this chapter after the end of the seventh calendar year after the calendar year in which this chapter takes effect.

(c) The Administrator, after consultation with the special medical advisory committee established pursuant to section 4112(a) of this title, shall prescribe regulations covering the terms and conditions for entering into agreements and making grants under this chapter.

(d) Payments made pursuant to grants under this chapter may be made in installments, and either in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Administrator may determine.

(e) In carrying out the purposes of this chapter, the Administrator may lease to any eligible institution for such consideration and under such terms and conditions as the Administrator deems appropriate, such land, buildings, and structures[1] including equipment therein) under the control and jurisdiction of the Veterans' Administration as may be necessary. The three-year limitation on the term of a lease prescribed in section 5012(a) of this title shall not apply with respect to any lease entered into pursuant to this chapter. Any lease entered into pursuant to this chapter may be entered into without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5). Notwithstanding section 321 of the Act entitled "An Act making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1933, and for other purposes," approved June 30, 1932 (40 U.S.C. 303b), or any other provision of law, a lease entered into pursuant to this chapter may provide for the maintenance, protection, or restoration, by the lessee, of the property leased, as a part or all of the consideration of the lease.

(f) In making grants under this chapter, the Administrator shall give special consideration to applications from institutions which provide reasonable assurances, which shall be included in the grant agreement, that priority for admission to health manpower and training programs carried out by such institutions will be given to otherwise qualified veterans who during their military service acquired medical military occupation specialties, and that among such qualified veterans those who served during the Vietnam era and those who are entitled to disability compensation under laws administered by the Veterans' Administration or whose discharge or release was for a disability incurred or aggravated in line of duty will be given the highest priority. In carrying out this chapter and section 4101(b) of this title in connection with health manpower and training programs assisted or conducted under this title or in affiliation with a Veterans' Administration medical facility, the Administrator shall take appropriate steps to encourage the institutions involved to afford the priorities described in the first sentence of this subsection and to advise all qualified veterans with such medical military occupation specialties of the steps the Administrator has taken under this subsection and the opportunities available to them as a result of such steps.

(g)(1) Each recipient of assistance under this chapter shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assist-

[1] So in original, probably should be preceded by an opening parenthesis.

ance, the total cost of the project or undertaking in connection with which such assistance is made or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit.

(2) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of any assistance under this chapter which are pertinent to such assistance.

(h) Not later than ninety days after the end of each fiscal year, the Administrator shall submit to the Congress a report on activities carried out under this chapter, including (1) an appraisal of the effectiveness of the programs authorized herein in carrying out their statutory purposes and the degree of cooperation from other sources, financial and otherwise, (2) an appraisal of the contributions of such programs in improving the quantity and quality of physicians and other health care personnel furnishing hospital care and medical services to veterans under this title, (3) a list of the approved but unfunded projects under this chapter and the funds needed for each such project, and (4) recommendations for the improvement or more effective administration of such programs, including any necessary legislation.

(Added Pub. L. 92-541, § 2(a), Oct. 24, 1972, 86 Stat. 1101, and amended Pub. L. 94-581, title I, §§ 116(1), (2), title II, § 210(f)(1), Oct. 21, 1976, 90 Stat. 2853, 2854, 2865.)

REFERENCES IN TEXT

Section 309 of the Public Health Service Act, referred to in subsec. (a), is section 309 of act July 1, 1944, ch. 373, as added Sept. 8, 1960, Pub. L. 86-720, § 1(a), 74 Stat. 819. Such section 309 was renumbered as section 313 by Pub. L. 93-353, title I, § 102(c), July 23, 1974, 88 Stat. 362, and is classified to section 245a of Title 42, The Public Health and Welfare.

The Public Health Service Act, referred to in subsec. (a), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title VII of the Public Health Service Act was added by act July 30, 1956, ch. 779, § 2, 70 Stat. 717, and is classified generally to subchapter V (§ 292 et seq.) of chapter 6A of Title 42, The Public Health and Welfare; Title VIII of the Public Health Service Act was added by act Sept. 4, 1964, Pub. L. 88-581, § 2, 78 Stat. 908, and is classified generally to subchapter VI (§ 296 et seq.) of chapter 6A of Title 42; Title IX of the Public Health Service Act was added by act Oct. 6, 1965, Pub. L. 89-239, § 2, 79 Stat. 926, and is classified generally to subchapter VII (§ 299 et seq.) of chapter 6A of Title 42. For complete classification of that Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables volume.

AMENDMENTS

1976—Subsec. (e). Pub. L. 94-581, § 116(1), added subsec. (e). Former subsec. (e) redesignated as (f).

Subsec. (f). Pub. L. 94-581, §§ 116(1), 210(f)(1), redesignated former subsec. (e) as (f) and in subsec. (f) as so redesignated substituted "steps the Administrator has taken" for "steps he has taken".

Subsec. (g). Pub. L. 94-581, § 116(1), redesignated former subsec. (f) as (g).

Subsec. (h). Pub. L. 94-581, § 116(2), added subsec. (h).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

SHORT TITLE

For Short Title of Pub. L. 92-541, Oct. 24, 1972, 86 Stat. 1101, which enacted this chapter, see Short Title of 1972 Amendments note set out under section 101 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER I—PILOT PROGRAM FOR ASSISTANCE IN THE ESTABLISHMENT OF NEW STATE MEDICAL SCHOOLS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5070 of this title.

§ 5071. Declaration of purpose

The purpose of this subchapter is to authorize the Administrator to implement a pilot program under which the Administrator may provide assistance in the establishment of new State medical schools at colleges or universities which are primarily supported by the States in which they are located if such schools are located in proximity to, and operated in conjunction with, Veterans' Administration medical facilities.

(Added Pub. L. 92-541, § 2(a), Oct. 24, 1972, 86 Stat. 1102, and amended Pub. L. 94-581, title II, § 210(f)(2), Oct. 21, 1976, 90 Stat. 2865.)

AMENDMENTS

1976—Pub. L. 94-581 substituted "the Administrator" for "he".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

§ 5072. Authorization of appropriations

(a) There is authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1973, and a like sum for each of the six succeeding fiscal years. Sums appropriated pursuant to this section shall be used for making grants pursuant to section 5073 of this title.

(b) Sums appropriated pursuant to subsection (a) of this section shall remain available until

the end of the sixth fiscal year following the fiscal year for which they are appropriated.

(Added Pub. L. 92-541, § 2(a), Oct. 24, 1972, 86 Stat. 1102.)

§ 5073. Pilot program assistance

(a) Subject to subsection (b) of this section, the Administrator may enter into an agreement to provide to any college or university which is primarily supported by the State in which it is located (hereinafter in this subchapter referred to as "institution") the following assistance to enable such institution to establish a new medical school:

(1) The extension, alteration, remodeling, improvement, or repair of buildings and structures (including, as part of a lease made under paragraph (1), the provision of equipment) provided under paragraph (1) to the extent necessary to make them suitable for use as medical school facilities.

(2) The making of grants to assist the institution to pay the cost of the salaries of the faculty of such school during the initial twelve-month period of operation of the school and the next six such twelve-month periods, but payment under this paragraph may not exceed an amount equal to—

(A) 90 per centum of the cost of faculty salaries during the first twelve-month period of operation,

(B) 90 per centum of such cost during the second such period,

(C) 90 per centum of such cost during the third such period,

(D) 80 per centum of such cost during the fourth such period,

(E) 70 per centum of such cost during the fifth such period,

(F) 60 per centum of such cost during the sixth such period, and

(G) 50 per centum of such cost during the seventh such period.

(b)(1) The Administrator may not enter into any agreement under subsection (a) of this section unless the Administrator finds, and the agreement includes satisfactory assurances, that—

(A) there will be adequate State or other financial support for the proposed school;

(B) the overall plans for the school meet such professional and other standards as the Administrator deems appropriate;

(C) the school will maintain such arrangements with the Veterans' Administration medical facility with which it is associated (including but not limited to such arrangements as may be made under subchapter IV of chapter 81 of this title) as will be mutually beneficial in the carrying out of the mission of the medical facility and the school; and

(D) on the basis of consultation with the appropriate accreditation body or bodies approved for such purpose by the Commissioner of Education of the Department of Health, Education, and Welfare, there is reasonable assurance that, with the aid of an agreement under subsection (a) of this section, such school will meet the accreditation standards of such body or bodies within a reasonable time.

(2) Any agreement entered into by the Administrator under this subchapter shall contain such terms and conditions (in addition to those imposed pursuant to section 5070(e) of this title and subsection (b)(1) of this section) as the Administrator deems necessary and appropriate to protect the interest of the United States.

(c) If the Administrator, in accordance with such regulations as the Administrator shall prescribe, determines that any school established with assistance under this chapter—

(1) is not accredited and fails to gain appropriate accreditation within a reasonable period of time;

(2) is accredited but fails substantially to carry out the terms of the agreement entered into under this chapter; or

(3) is no longer operated for the purpose for which such assistance was granted,

the Administrator shall be entitled to recover from the recipient of assistance under this chapter the facilities of such school which were established with assistance under this chapter. In order to recover such facilities the Administrator may bring an action in the district court of the United States for the district in which such facilities are situated.

(Added Pub. L. 92-541, § 2(a), Oct. 24, 1972, 86 Stat. 1102, and amended Pub. L. 94-581, title I, § 116(3), (4), title II, § 210(f)(3), Oct. 21, 1976, 90 Stat. 2854, 2865.)

Amendments

1976—Subsec. (a). Pub. L. 94-581, § 116(3), redesignated former pars. (2) and (3) as (1) and (2), respectively. Former par. (1), which authorized the leasing of such land, buildings, and structures under the control of the Veterans' Administration as might be necessary for a new medical school, was stricken. See section 5070(e) of this title.

Subsec. (b)(1). Pub. L. 94-581, § 210(f)(3)(A), substituted "the Administrator" for "he" in the provisins preceding subpar. (A).

Subsec. (b)(2). Pub. L. 94-581, §§ 116(4), 210(f)(3)(A) substituted "section 5070(e) of this title and subsection (b)(1) of this section" for "subsections (a)(1) and (b)(1) of this section" and "as the Administrator deems" for "as he deems".

Subsec. (c). Pub. L. 94-581, § 210(f)(3)(B), substituted "the Administrator" for "he" in the provisions preceding par. (1) and in the provisions following par. (3).

Effective Date of 1976 Amendment

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

Section Referred to in Other Sections

This section is referred to in section 5072 of this title.

§ 5074. Limitations

The Administrator may not use the authority under this subchapter to assist in the establishment of more than eight new medical schools. Such schools shall be located in geographically dispersed areas of the United States.

(Added Pub. L. 92-541, § 2(a), Oct. 24, 1972, 86 Stat. 1104.)

SUBCHAPTER II—GRANTS TO AFFILIATED MEDICAL SCHOOLS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5070 of this title.

§ 5081. Declaration of purpose

The purpose of this subchapter is to authorize the Administrator to carry out a program of grants to medical schools which have maintained affiliations with the Veterans' Administration in order to assist such schools to expand and improve their training capacities and to cooperate with institutions of the types assisted under subchapter III of this chapter in carrying out the purposes of such subchapter.

(Added Pub. L. 92-541, § 2(a), Oct. 24, 1972, 86 Stat. 1104.)

§ 5082. Authorization of appropriations

(a) There is further authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973, and a like sum for each of the six succeeding fiscal years, for carrying out programs authorized under this chapter.

(b) Sums appropriated pursuant to subsection (a) of this section shall remain available until the end of the sixth fiscal year following the fiscal year for which they are appropriated.

(Added Pub. L. 92-541, § 2(a), Oct. 24, 1972, 86 Stat. 1104.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5096 of this title.

§ 5083. Grants

(a) Any medical school which is affiliated with the Veterans' Administration under an agreement entered into pursuant to this title may apply to the Administrator for a grant under this subchapter to assist such school, in part, to carry out, through the Veterans' Administration medical facility with which it is affiliated, projects and programs in furtherance of the purposes of this subchapter, except that no grant shall be made for the construction of any building which will not be located on land under the jurisdiction of the Administrator. Any such application shall contain such information in such detail as the Administrator deems necessary and appropriate.

(b) An application for a grant under this section may be approved by the Administrator only upon the Administrator's determination that—

(1) the proposed projects and programs for which the grant will be made will make a significant contribution to improving the medical education (including continuing education) program of the school and will result in a substantial increase in the number of medical students attending such school, provided there is reasonable assurance from a recognized accrediting body or bodies approved for such purposes by the Commissioner of Education of the Department of Health, Education, and Welfare that the increase in the number of students will not threaten any existing accreditation or otherwise compromise the quality of the training at such school;

(2) the application contains or is supported by adequate assurance that any Federal funds made available under this subchapter will be supplemented by funds or other resources available from other sources, whether public or private;

(3) the application sets forth such fiscal control and accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds expended under this subchapter; and

(4) the application provides for making such reports, in such form and containing such information, as the Administrator may require to carry out the Administrator's functions under this subchapter, and for keeping such records and for affording such access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

(Added Pub. L. 92-541, § 2(a), Oct. 24, 1972, 86 Stat. 1104, and amended Pub. L. 94-581, title II, §§ 207, 210(f)(4), Oct. 21, 1976, 90 Stat. 2860, 2865.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-581, § 207, substituted "pursuant to this title" for "pursuant to subchapter IV of chapter 81 of this title".

Subsec. (b). Pub. L. 94-581, § 210(f)(4), substituted "the Administrator's" for "his" in the provisions preceding par. (1) and in par. (4).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581 set out as an Effective Date of 1976 Amendment note under section 111 of this title.

SUBCHAPTER III—ASSISTANCE TO PUBLIC AND NONPROFIT INSTITUTIONS OF HIGHER LEARNING, HOSPITALS AND OTHER HEALTH MANPOWER INSTITUTIONS AFFILIATED WITH THE VETERANS' ADMINISTRATION TO INCREASE THE PRODUCTION OF PROFESSIONAL AND OTHER HEALTH PERSONNEL

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5070, 5081 of this title.

§ 5091. Declaration of purpose

The purpose of this subchapter is to authorize the Administrator to carry out a program of grants to provide assistance in the establishment of cooperative arrangements among universities, colleges, junior colleges, community colleges, schools of allied health professions, State and local systems of education, hospitals, and other nonprofit health manpower institutions affiliated with the Veterans' Administration, designed to coordinate, improve, and expand the training of professional and technical allied health and paramedical personnel, and to assist in developing and evaluating new health careers, interdisciplinary approaches and career advancement opportunities, so as to improve and expand allied and other health manpower utilization.

(Added Pub. L. 92-541, § 2(a), Oct. 24, 1972, 86 Stat. 1105.)

§ 5092. Definition

For the purpose of this subchapter, the term "eligible institution" means any nonprofit educational facility or other public or nonprofit institution, including universities, colleges, junior colleges, community colleges, schools of allied health professions, State and local systems of education, hospitals, and other nonprofit health manpower institutions for the training or education of allied health or other health personnel affiliated with the Veterans' Administration for the conduct of or the providing of guidance for education and training programs for health manpower.

(Added Pub. L. 92-541, § 2(a), Oct. 24, 1972, 86 Stat. 1105.)

§ 5093. Grants

(a) Any eligible institution may apply to the Administrator for a grant under this subchapter to assist such institution to carry out through the Veterans' Administration medical facility with which it is, or will become affiliated, educational and clinical projects and programs, matching the clinical requirements of the facility to the health manpower training potential of the eligible institution, for the expansion and improvement of such institution's capacity to train health manpower, including physicians' assistants, nurse practitioners, and other new types of health personnel in furtherance of the purposes of this subchapter. Any such application shall contain a plan to carry out such projects and programs and such other information in such detail as the Administrator deems necessary and appropriate.

(b) An application for a grant under this section may be approved by the Administrator only upon the Administrator's determination that—

(1) the proposed projects and programs for which the grant will be made will make a significant contribution to improving the education (including continuing education) or training program of the eligible institution and will result in a substantial increase in the number of students trained at such institution, provided there is reasonable assurance from a recognized accrediting body or bodies approved for such purposes by the Commissioner of Education of the Department of Health, Education, and Welfare that the increase in the number of students will not threaten any existing accreditation or otherwise compromise the quality of the training at such institution;

(2) the application contains or is supported by adequate assurance that any Federal funds made available under this subchapter will be supplemented by funds or other resources available from other sources, whether public or private;

(3) the application sets forth such fiscal control and accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds expended under this subchapter; and

(4) the application provides for making such reports, in such form and containing such information, as the Administrator may require to carry out the Administrator's functions under this subchapter, and for keeping such records and for affording such access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

(Added Pub. L. 92-541, § 2(a), Oct. 24, 1972, 86 Stat. 1106, and amended Pub. L. 94-581, title II, § 210(f)(5), Oct. 21, 1976, 90 Stat. 2866.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-581 substituted "the Administrator's" for "his" in the provisions preceding par. (1) and in par. (4).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

SUBCHAPTER IV—EXPANSION OF VETERANS' ADMINISTRATION HOSPITAL EDUCATION AND TRAINING CAPACITY

§ 5096. Expenditures to remodel and make special allocations to Veterans' Administration hospitals for health manpower education and training

Out of funds appropriated to the Veterans' Administration pursuant to the authorization in section 5082 of this title, the Administrator may expend such sums as the Administrator deems necessary, not to exceed 30 per centum thereof, for (1) the necessary extension, expansion, alteration, improvement, remodeling, or repair of Veterans' Administration buildings and structures (including provision of initial equipment, replacement of obsolete or worn-out equipment, and, where necessary, addition of classrooms, lecture facilities, laboratories, and other teaching facilities) to the extent necessary to make them suitable for use for health manpower education and training in order to carry out the purpose set forth in section 4101(b), and (2) special allocations to Veterans' Administration hospitals and other medical facilities for the development or initiation of improved methods of education and training which may include the development or initiation of plans which reduce the period of required education and training for health personnel but which do not adversely affect the quality of such education or training.

(Added Pub. L. 92-541, § 2(a), Oct. 24, 1972, 86 Stat. 1106, and amended Pub. L. 94-581, title II, § 210(f)(6), Oct. 21, 1976, 90 Stat. 2866.)

AMENDMENTS

1976—Pub. L. 94-581 substituted "the Administrator" for "he".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

CHAPTER 83—ACCEPTANCE OF GIFTS AND BEQUESTS

Sec.
5101. Authority to accept gifts, devises, and bequests.
5102. Legal proceedings.
5103. Restricted gifts.
5104. Disposition of property.
5105. Savings provision.

§ 5101. Authority to accept gifts, devises, and bequests

The Administrator may accept devises, bequests, and gifts, made in any manner, with respect to which the testator or donor shall have indicated his intention that such property shall be for the benefit of groups of persons formerly in the active military, naval, or air service who by virtue of such service alone, or disability suffered therein or therefrom, are or shall be patients or members of any one or more hospitals or homes operated by the United States Government, or has indicated his intention that such property shall be for the benefit of any such hospital or home, or shall be paid or delivered to any official, as such, or any agency in administrative control thereof.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1254.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5105 of this title.

§ 5102. Legal proceedings

For the purpose of acquiring title to and possession of any property which he is by this chapter authorized to accept, the Administrator may initiate and appear in any appropriate legal proceedings, and take such steps therein or in connection therewith as in his discretion may be desirable and appropriate to reduce said property to possession. He may incur such expenses incident to such proceedings as he deems necessary or appropriate, which shall be paid as are other administrative expenses of the Veterans' Administration. All funds received by devise, bequest, gift, or otherwise, for the purposes contemplated in this chapter, including net proceeds of sales authorized by this chapter, shall be deposited with the Treasurer of the United States to the credit of the General Post Fund.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1254.)

§ 5103. Restricted gifts

Disbursements from the General Post Fund shall be made on orders by and within the discretion of the Administrator and in the manner prescribed in section 5223 of this title; except that (1) if the testator or donor has directed or shall direct that his devise, bequest, or gift be devoted to a particular use authorized by this chapter, the same, less expenses incurred, or the net proceeds thereof, shall be used or disbursed as directed, except that a precatory direction shall be fulfilled only insofar as may be proper or practicable; and (2) if the testator or donor shall have indicated his desire that his devise, bequest, or gift shall be for the benefit of persons in hospitals or homes, or other institutions operated by the United States but under the jurisdiction of an official other than the Administrator, the same, less expenses incurred, or the net proceeds thereof which may come into possession of the Administrator, shall be disbursed by transfer to the governing authorities of such institution, or otherwise, in such manner as the Administrator may determine, for the benefit of the persons in the institution indicated by the testator or donor, for proper purposes, as nearly as practicable in conformity with such desire of the testator or donor.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1255.)

§ 5104. Disposition of property

If the Administrator receives any property other than moneys as contemplated by this chapter, he is authorized in his discretion to sell, assign, transfer, and convey the same, or any interest therein claimed by virtue of such devise, bequest, or gift, for such price and upon such terms as he deems advantageous (including consent to partition of realty and compromise of contested claim of title) and his assignment, deed, or other conveyance of any such property, executed in the name and on behalf of the United States, shall be valid to pass to the purchaser thereof such title to said property as the United States, beneficially or as trustee of the General Post Fund, may have by virtue of any such devise, bequest, or gift, and the proceedings incident thereto, subject to the conditions, limitations, and provisions of the instruments so executed by the Administrator.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1255.)

§ 5105. Savings provision

(a) Nothing contained in this chapter shall be construed to repeal or modify any law authorizing the acceptance of devises, bequests, or gifts to the United States for their own use and benefit or for any particular purpose specified by the donors or testators.

(b) Whenever the United States receives property and it appears that it is, or shall have been, the intention of the testator or donor that such devise, bequest, or gift be for the benefit of those persons described in section 5101 of this title, or any particular hospital or other institution operated primarily for their benefit, such property or the proceeds thereof shall be credited to the General Post Fund, and shall be used or disbursed in accordance with the provisions of this chapter.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1255.)

CHAPTER 85—DISPOSITION OF DECEASED VETERANS' PERSONAL PROPERTY

SUBCHAPTER I—PROPERTY LEFT ON VETERANS' ADMINISTRATION FACILITY

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5201. Vesting of property left by decedents.
5202. Disposition of unclaimed personal property.
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SUBCHAPTER II—DEATH WHILE INMATE OF VETERANS' ADMINISTRATION FACILITY

Sec.
5220. Vesting of property left by decedents.
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5222. Sale of assets accruing to the Fund.
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5226. Filing of claims for assets.
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SUBCHAPTER I—PROPERTY LEFT ON VETERANS' ADMINISTRATION FACILITY

§ 5201. Vesting of property left by decedents

(a) Personal property left by any decedent upon premises used as a Veterans' Administration facility, which premises are subject to the exclusive legislative jurisdiction of the United States and are within the exterior boundaries of any State or dependency of the United States, shall vest and be disposed of as provided in this subchapter, except that—

(1) if such person died leaving a last will and testament probated under the laws of the place of his domicile or under the laws of the State or dependency of the United States within the exterior boundaries of which such premises or a part thereof may be, the personal property of such decedent situated upon such premises shall vest in the person or persons entitled thereto under the provisions of such last will and testament; and

(2) if such person died leaving any such property not disposed of by a last will and testament probated in accord with the provisions of paragraph (1) such property shall vest in the persons entitled to take such property by inheritance under and upon the conditions provided by the law of the decedent's domicile. This paragraph shall not apply to property to which the United States is entitled except where such title is divested out of the United States.

(b) Any officer or employee of the United States in possession of any such property may deliver same to the executor (or the administrator with will annexed) who shall have qualified in either jurisdiction as provided in subsection (a)(1); or if none such then to the domiciliary administrator or to any other qualified administrator who shall demand such property. When delivery shall have been made to any such executor or administrator in accordance with this subsection, neither the United States nor any officer or employee thereof shall be liable therefor.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1256.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5202 of this title.

§ 5202. Disposition of unclaimed personal property

(a) Notwithstanding the provisions of section 5201 of this title, the Administrator may dispose of the personal property of such decedent left or found upon such premises as hereafter provided in this subchapter.

(b) If any veteran (admitted as a veteran), or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title, upon his last admission to, or during his last period of maintenance in, a Veterans' Administration facility, shall have designated in writing a person (natural or corporate) to whom he desires his personal property situated upon such facility to be delivered, upon the death of such veteran the Administrator or employee of the Veterans' Administration authorized by him so to act, may transfer possession of such personal property to the person so designated. If there exists no person so designated by the veteran or if the one so designated declines to receive such property, or if he has failed to request such property within ninety days after the Veterans' Administration mails to such designate a notice of death and of the fact of such designation, a description of the property, and an estimate of transportation cost, which shall be paid by such designate if required under the regulations hereinafter mentioned, or if the Administrator declines to transfer possession to such designate, possession of such property may in the discretion of the Administrator or his designated subordinate, be transferred to the following persons in the order and manner herein specified unless the parties otherwise agree as provided in this subchapter, namely, executor or administrator, or if no notice of appointment received, to the spouse, child, grandchild, mother, father, grandmother, grandfather, brother, or sister of the veteran. In case two or more of those named above request the property, only one shall be entitled to possession thereof and in the order hereinbefore set forth, unless they otherwise agree in writing delivered to the Veterans' Administration. If claim is made by two or more such relatives having equal priorities, as hereinabove prescribed, or if there are conflicting claims the Administrator or his designee may in such case select the one to receive such possession, or may make delivery as may be agreed upon by those entitled, or may in his discretion withhold delivery from them and require the qualification of an administrator or executor of the veterans' estate and thereupon make delivery to such.

(c) If the property of any decedent is not so delivered or claimed and accepted the Administrator or his designee may dispose of such property by public or private sale in accordance with the provisions of this subchapter and regulations prescribed by the Administrator.

(d) All sales authorized by this subchapter shall be for cash upon delivery at the premises where sold and without warranty, express or implied. The proceeds of such sales after payment of any expenses incident thereto as may be prescribed by regulations, together with any other moneys left or found on a facility, not disposed of in accordance with this subchapter, shall be credited to the General Post Fund, National Homes, Veterans' Administration, a trust fund provided for in section 725s(a)(45) of title 31. In addition to the purposes for which such fund may be used under the existing law, disbursements may be made therefrom as authorized by the Administrator by regulation or otherwise for the purpose of satisfying any legal li-

ability incurred by any employee in administering the provisions of this subchapter, including any expense incurred in connection therewith. Legal liability shall not exist when delivery or sale shall have been made in accordance with this subchapter.

(e) If, notwithstanding such sale; a claim is filed with the Administrator within five years after notice of sale as herein required, by or on behalf of any person or persons who if known would have been entitled to the property under section 5201 of this title or to possession thereof under this section, the Administrator shall determine the person or persons entitled under the provisions of this subchapter and may pay to such person or persons so entitled the proceeds of sale of such property, less expenses. Such payment shall be made out of the said trust fund, and in accord with the provisions of this section or section 5201 of this title. Persons under legal disability to sue in their own name may make claim for the proceeds of sale of such property at any time within five years after termination of such legal disability.

(f) Any such property, the sale of which is authorized under this subchapter and which remains unsold, may be used, destroyed, or otherwise disposed of in accordance with regulations promulgated by the Administrator.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1257; Pub. L. 94–581, title II, § 208(a), Oct. 21, 1976, 90 Stat. 2860.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94–581 added "or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title," following "(admitted as a veteran),".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 101, 5205 of this title.

§ 5203. Notice of provisions of this subchapter

All persons having or bringing personal property on the premises of a Veterans' Administration facility shall be given reasonable notice of the provisions of this subchapter. In case of a mentally incompetent person, notice hereof shall be given the guardian or other person having custody or control of such person or, if none, to his nearest relative if known. The admission to or continued maintenance in such facility after reasonable notice of the provisions of this subchapter shall constitute consent to the provisions hereof. The death of any person on any such facility or the leaving of property thereon shall be prima facie evidence of a valid agreement for the disposition of such property in accordance with the provisions of this subchapter.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1258.)

§ 5204. Disposition of other unclaimed property

Any other unclaimed property found on the premises under the control of the Veterans' Administration shall be stored by the officer in charge of such premises and may be sold, used, destroyed, or otherwise disposed of in accordance with regulations promulgated by the Administrator if the owner thereof fails to claim same within ninety days. If undisposed of, the same may be reclaimed by the owner, his personal representative or next of kin, upon payment of reasonable storage charges prescribed by regulations. If sold, the net proceeds thereof shall be credited to said post fund to be expended as other assets of such fund. The person who was entitled to such property, or his legal representative, or assignee, shall be paid the proceeds of sale thereof, less expenses if claim therefor be made within five years from the date of finding. If the owner shall have died intestate without creditors or next of kin surviving, such proceeds shall not be paid to his legal representative.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1258.)

§ 5205. Sale or other disposition of property

Any unclaimed personal property as described in section 5202 of this title of veterans who have heretofore died or who may hereafter die while maintained as such in a Veterans' Administration facility, and also any unclaimed property heretofore or hereafter found or situated in such facility, may be sold, used, destroyed, or otherwise disposed of in accordance with this subchapter, and subject to regulations promulgated by the Administrator pursuant hereto; and the net proceeds of sale thereof shall be credited and be subject to disbursement as provided in this subchapter.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1258.)

§ 5206. Notice of sale

At least ninety days before any sale pursuant to this subchapter, written or printed notice thereof describing the property to be sold shall be mailed to the owner of the property or, if deceased, to his executor or administrator, or to the nearest kin, if any such appear by the records of the Veterans' Administration. If none such appears from said records, similar notice shall be posted at the facility where the death occurred or property shall have been found (if in existence) and at the place where such property is situated at the time of such notice, and also at the place where probate notices are posted in the county wherein the sale is to be had. The person posting such notice shall make an affidavit setting forth the time and place of such posting and attaching thereto a copy of such notice, and such affidavit shall be prima facie evidence of such posting and admissible in evidence as proof of the same.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1258.)

§ 5207. Payment of small shipping charges

Upon receipt of a proper claim for such property under the provisions of this subchapter the Administrator is hereby authorized, in his discretion and in accordance with regulations by him promulgated, to pay mailing or shipping

charges not to exceed $25 in the case of each deceased veteran as hereinabove defined.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1259.)

§ 5208. Relinquishment of Federal jurisdiction

Subject to the provisoins of this subchapter and to the extent necessary to effectuate the purposes of this subchapter, there is hereby relinquished to the respective State or dependency of the United States such jurisdiction pertaining to the administration of estates of decedents as may have been ceded to the United States by said State or dependency of the United States respecting the Federal reservation on which is situated any Veterans' Administration facility while such facility is operated by the Veterans' Administration; such jurisdiction with respect to any such property on any such reservation to be to the same extent as if such premises had not been ceded to the United States. Nothing in this section shall be construed to deprive any State or dependency of the United States of any jurisdiction which it now has nor to give any State, possession, or dependency of the United States authority over any Federal official as such on such premises or otherwise.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1259.)

§ 5209. Definitions

The term "facility" or "Veterans' Administration facility" as used in this subchapter means those facilities over which the Veterans' Administration has direct and exclusive administrative jurisdiction, including hospitals or other facilities on property owned or leased by the United States while operated by the Veterans' Administration.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1259.)

§ 5210. Finality of decisions

Decisions by the Administrator under this subchapter shall not be reviewable administratively by any other officer of the United States.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1259.)

SUBCHAPTER II—DEATH WHILE INMATE OF VETERANS' ADMINISTRATION FACILITY

§ 5220. Vesting of property left by decedents

(a) Whenever any veteran (admitted as a veteran), or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title, shall die while a member or patient in any facility, or any hospital while being furnished care or treatment therein by the Veterans' Administration, and shall not leave surviving him any spouse, next of kin, or heirs entitled, under the laws of his domicile, to his personal property as to which he dies intestate, all such property, including money and choses in action, owned by him at the time of death and not disposed of by will or otherwise, shall immediately vest in and become the property of the United States as trustee for the sole use and benefit of the General Post Fund (hereafter in this subchapter referred to as the "Fund"), a trust fund prescribed by section 725s (a)(45) of title 31.

(b) The provisions of subsection (a) are conditions precedent to the initial, and also to the further furnishing of care or treatment by the Veterans' Administration in a facility or hospital. The acceptance and the continued acceptance of care or treatment by any veteran (admitted as a veteran to a Veterans' Administration facility or hospital) shall constitute an acceptance of the provisions and conditions of this subchapter and have the effect of an assignment, effective at his death, of such assets in accordance with and subject to the provisions of this subchapter and regulations issued in accordance with this subchapter.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1259; Pub. L. 94-581, title II, § 208(b), Oct. 21, 1976, 90 Stat. 2860.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-581 added ", or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title," after "(admitted as a veteran)".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5221, 5226 of this title.

§ 5221. Presumption of contract for disposition of personalty

The fact of death of a veteran (admitted as such), or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title, in a facility or hospital, while being furnished care or treatment therein by the Veterans' Administration, leaving no spouse, next of kin, or heirs, shall give rise to a conclusive presumption of a valid contract for the disposition in accordance with this subchapter, but subject to its conditions, of all property described in section 5220 of this title owned by said decedent at death and as to which he dies intestate.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1260; Pub. L. 94-581, title II, § 208(c), Oct. 21, 1976, 90 Stat. 2860.)

AMENDMENTS

1976—Pub. L. 94-581 added ", or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title," after "(admitted as such)".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

§ 5222. Sale of assets accruing to the Fund

Any assets heretofore or hereafter accruing to the benefit of the Fund, other than money, but including jewelry and other personal effects, may be sold at the times and places and in the manner prescribed by regulations issued by the Administrator. Upon receipt of the purchase price he is authorized to deliver at the place of sale, said property sold, and upon request to execute and deliver appropriate assign-

ments or other conveyances thereof in the name of the United States, which shall pass to the purchaser such title as decedent had at date of death. The net proceeds after paying any proper sales expense as determined by the Administrator shall forthwith be paid to the Treasurer of the United States to the credit of the Fund; and may be disbursed as are other moneys in the Fund by the Division of Disbursements, Treasury Department, upon order of said Administrator. Articles of personal adornment which are obviously of sentimental value, shall be retained and not sold or otherwise disposed of until the expiration of five years from the date of death of the veteran, without a claim therefor, unless for sanitary or other proper reasons it is deemed unsafe to retain same, in which event they may be destroyed forthwith. Any other articles coming into possession of the Administrator or his representative by virtue of this subchapter which, under regulations promulgated by the Administrator, are determined to be unsalable may be destroyed forthwith or at the time prescribed by regulations, or may be used for the purposes for which disbursements might properly be made from the Fund, or if not usable, otherwise disposed of in accordance with regulations.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1260.)

§ 5223. Disbursements from the Fund

Disbursements from the fund shall be made by the Division of Disbursements, Treasury Department, upon the order and within the discretion of the Administrator for the benefit of members and patients while being supplied care or treatment by the Veterans' Administration in any facility or hospital. The authority contained in the preceding sentence is not limited to facilities or hospitals under direct administrative control of the Veterans' Administration. There shall be paid out of the assets of the decendent so far as may be the valid claims of creditors against his estate that would be legally payable therefrom in the absence of this subchapter and without the benefit of any exemption statute, and which may be presented to the Veterans' Administration within one year from the date of death, or within the time, to the person, and in the manner required or permitted by the law of the State wherein administration, if any, is had upon the estate of the deceased veteran; and also the proper expenses and costs of administration, if any. If the decedent's estate is insolvent the distribution to creditors shall be in accordance with the laws of his domicile, and the preferences and priorities prescribed thereby shall govern, subject to any applicable law of the United States.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1260.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5103 of this title.

§ 5224. Disposal of remaining assets

The remainder of such assets or their proceeds shall become assets of the United States as trustee for the Fund and disposed of in accordance with this subchapter. If there is administration upon the decedent's estate such assets, other than money, upon claim therefor within the time required by law, shall be delivered by the administrator of the estate to the Administrator or his authorized representative, as upon final distribution; and upon the same claim there shall be paid to the Treasurer of the United States for credit to the Fund any such money, available for final distribution. In the absence of administration, any money, chose in action, or other property of the deceased veteran held by any person shall be paid or transferred to the Administrator upon demand by him or his duly authorized representative, who shall deliver itemized receipt therefor. Such payment or transfer shall constitute a complete acquittance of the transferor with respect to any claims by any administrator, creditor, or next of kin of such decedent.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1261.)

§ 5225. Court actions

If necessary to obtain such assets the Administrator, through his authorized attorneys, may bring and prosecute appropriate actions at law or other legal proceedings, the costs and expenses thereof to be paid as are other administrative expenses of the Veterans' Administration.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1261.)

§ 5226. Filing of claims for assets

Notwithstanding the crediting to said Fund of the assets, or proceeds thereof, of any decedent, whether upon determination by a court or the Veterans' Administration pursuant to the provisions of section 5220 of this title, any person claiming a right to such assets may within five years after the death of the decedent file a claim on behalf of himself and any other claiming with the Administrator. Upon receipt of due proof that any person was at date of death of the veteran entitled to his personal property, or a part thereof, under the laws of the State of domicile of the decedent, the Administrator may pay out of the Fund, but not to exceed the net amount credited thereto from said decedent's estate less any necessary expenses, the amount to which such person, or persons, was or were so entitled, and upon similar claim any assets of the decedent which shall not have been disposed of shall be delivered in kind to the parties legally entitled thereto. If any person so entitled is under legal disability at the date of death of such decedent, such five-year period of limitation shall run from the termination or removal of legal disability. In the event of doubt as to entitlement, the Administrator may cause administration or other appropriate proceedings to be instituted in any court having jurisdiction. In determining questions of fact or law involved in the adjudication of claims made under this section, no judgment, decree, or order entered in any action at law, suit in equity, or other legal proceeding of any character purporting to determine entitlement to said assets or any part thereof, shall be binding upon the United States or the Administrator or determinative of any fact or question involving entitlement to any such property or the proceeds thereof, or any part of the Fund, unless the Administrator has been seasonably

served with notice and permitted to become a party to such suit or proceeding if he makes a request therefor within thirty days after such notice. Notice may be served in person or by registered mail or by certified mail upon the Administrator, or upon his authorized attorney in the State wherein the action or proceedings may be pending. Notice may be waived by the Administrator or by his authorized attorney, in which event the finding, judgment, or decree shall have the same effect as if the Administrator were a party and served with notice. Any necessary court costs or expenses if authorized by the Administrator may be paid as are other administrative expenses of the Veterans' Administration.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1261; Pub. L. 86–507, § 1(33), June 11, 1960, 74 Stat. 202.)

AMENDMENTS

1960—Pub. L. 86–507 inserted "or by certified mail" following "registered mail".

§ 5227. Notice of provisions of subchapter

The Administrator shall prescribe a form of application for hospital treatment and domiciliary care which shall include notice of the provisions of this subchapter.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1262.)

§ 5228. Investment of the Fund

Money in the Fund not required for current disbursements may be invested and reinvested by the Secretary of the Treasury in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1262.)